



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-08-91-T
Date: 11 November 2010
Original: English

IN TRIAL CHAMBER II

Before: Judge Burton Hall, Presiding
Judge Guy Delvoie
Judge Frederik Harhoff

Registrar: Mr. John Hocking

Decision of: 11 November 2010

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC

**DECISION GRANTING PROSECUTION MOTION FOR
TESTIMONY OF WITNESS ST244 TO BE HEARD VIA
VIDEO-CONFERENCE LINK**

The Office of the Prosecutor

Ms. Joanna Korner
Mr. Thomas Hannis

Counsel for the Accused

Mr. Slobodan Zečević and Mr. Slobodan Cvijetić for Mićo Stanišić
Mr. Dragan Krgović and Mr. Igor Pantelić for Stojan Župljanin

TRIAL CHAMBER II (“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 testimony of witness ST244 to be heard via video-conference link, with annex A”, filed confidentially on 4 November 2010 (“Motion”), whereby the Prosecution requests that ST244 testify via video-conference link from Sweden¹ pursuant to Rule 81 *bis* of the Rules of Procedure and Evidence (“Rules”);

NOTING that the Motion includes a medical certificate provided by ST244’s physicians;²

NOTING that at the hearing on 5 November 2010 the Defence of Mićo Stanišić and the Defence of Stojan Župljanin stated that they do not object to this witness being heard via video-conference link;³

CONSIDERING that hearing testimony by video-conference link does not violate the rights of the accused to cross-examine the witness and to confront the witness directly and that, according to the jurisprudence of the Tribunal, testimony of witnesses by video-conference link has as much probative value as testimony presented in the courtroom;⁴

CONSIDERING that the Prosecution has, on the basis of the Motion and the attached medical certificate, demonstrated that it is in the interests of justice to hear the testimony of the witness via video-conference link on 1 December 2010;

PURSUANT TO Rules 54 and 81 *bis*;

GRANTS the Motion; and

ORDERS as follows:

- a. The witness shall testify via video-conference link from Sweden on 1 December 2010, or on a date to be decided should the witness order be amended;

¹ Motion, para. 1 and 12.

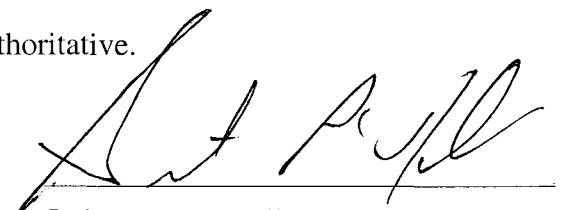
² *Id.*, Confidential Annex A.

³ T. 16930-16931.

⁴ *Prosecutor v. Hadžihasanović & Kubura*, Case No. IT-01-47-T, Decision on Prosecution motion for receiving testimony by video-conference link, 11 Mar 2004; *Prosecutor v. Milutinović et al.*, Case No. IT-99-37-T, Decision on Prosecution motion for testimony of K58 to be heard via video-conference link, 1 Nov 2006, p. 2.

- b. The Registrar shall take all reasonable steps to ensure that the video-conference link is established for 1 December 2010 and shall advise the Trial Chamber should that not be possible;
- c. The Registrar shall appoint a Presiding Officer to ensure that the testimony is given freely and voluntarily;
- d. The Presiding Officer shall identify the witness and explain the nature of the proceedings and the obligation to speak the truth, inform the witness that he or she is liable to prosecution for perjury in case of false testimony, administer the taking of the oath, and keep the Trial Chamber informed at all times of the conditions at the location;
- e. The testimony of the witness shall be given in the physical presence only of the Presiding Officer and, if necessary, in the presence of a member of the Registry technical staff, unless the Trial Chamber decides otherwise;
- f. The witness, using a monitor, shall be able to see, at all appropriate times, the Judges, the Accused, and the questioner and the Judges, the Accused and the questioner must be able to observe the witness on their monitors;
- g. Any statement made under solemn declaration by the witness shall be treated as having been made in the courtroom and the witness shall be liable to prosecution for perjury in exactly the same way as if he or she had given evidence at the seat of the Tribunal.

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



Judge Burton Hall
Presiding

Dated this eleventh day of November 2010

At The Hague

The Netherlands

[Seal of the Tribunal]