



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-03-67-T

Date: 20 November 2008

Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, Presiding
Judge Frederik Harhoff
Judge Flavia Lattanzi

Registrar: Mr Hans Holthuis

Decision of: 20 November 2008

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC

**DECISION ON PROSECUTION MOTION TO APPLY RULE 92 *ter* OF THE
RULES OF PROCEDURE AND EVIDENCE TO WITNESS SULEJMAN
TIHIĆ**

The Office of the Prosecutor

Mr Daryl Mundis
Ms Christine Dahl

The Accused

Mr Vojislav Šešelj

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");

NOTING the Motion of the Office of the Prosecutor ("Prosecution") filed confidentially on 11 November 2008 for the admission of a written statement by Witness Sulejman Tihic pursuant to Rule 92 *ter* ("Motion");¹

NOTING the Chamber's Decision of 7 January 2008, in which the Chamber decided that for some witnesses, in particular Sulejman Tihic, the Prosecution request to hear them pursuant to Rule 92 *ter* was denied "since there is no showing of relevance and due to their excessive number of pages";²

CONSIDERING, nevertheless, that for these Witnesses, the Chamber decided that it could "take into consideration a future request based on Rule 92 *ter* of the Rules to admit new statements tailored specifically to the requirements of this case against the Accused";³

CONSIDERING that on 18 November 2008, the Accused verbally objected to Sulejman Tihic testifying pursuant to Rule 92 *ter*, since he has been and continues to be an important political figure in Bosnia and Herzegovina;⁴

CONSIDERING that this witness's written statement relates mainly to the tension that started at the beginning of 1992 between the various ethnic groups in Bosanski Šamac, but also to the outbreak of conflict in this community on 17 April 1992, to the involvement of the JNA, the TO and all other paramilitary units in the fighting and violence committed in this town and its vicinity and of which the Witness was a victim as a political representative of the Bosniaks;

¹ Prosecution Motion for the Admission of the Written Statement of Witness VS-1007 Pursuant to Rule 92 *ter*, confidential, 11 November 2008.

² Decision on the Prosecution's Consolidated Motion Pursuant to Rules 89 (F), 92 *bis*, 92 *ter* and 92 *quater* of the Rules of Procedure and Evidence, confidential, 7 January 2008. para. 52.

³ *Id.*, para. 53.

⁴ Hearing of 18 November 2008, Transcript in French 11763-11768.

CONSIDERING that the Chamber finds that since the witness is the first to testify on the municipality of Bosanski Šamac and the neighbouring communities concerning the acts and conduct of individuals for which the Accused could be held responsible, since the Witness claims that he knows of crimes committed by "Šešelj's men";

CONSIDERING that the Chamber finds, therefore, that it is in the interests of justice to hear the Witness *viva voce*, in view of his importance and in order to better understand the case presented to the Chamber, more precisely, with regard to the presence of armed forces in the region of Bosanski Šamac and the crimes that may have been committed by them;

FOR THESE REASONS

DISMISSES the Prosecution Motion and **DECIDES**

- i) to hear Witness Sulejman Tihic *viva voce*; and
- ii) to assign one hour to the Prosecution and to the Accused for this Witness.

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

 /signed/
Jean-Claude Antonetti
Presiding Judge

Done this twentieth day of November 2008
At The Hague
The Netherlands

[Seal of the Tribunal]