

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before:
Judge Theodor Meron, President

Registrar:
Mr. Hans Holthuis

Order of:
27 September 2004

THE PROSECUTOR

v.

Radovan STANKOVIC

**PRELIMINARY ORDER IN RESPONSE TO THE PROSECUTOR'S MOTION
UNDER RULE 11 *bis***

The Office of the Prosecutor

Carla Del Ponte, Prosecutor
Jan Wubben, Senior Trial Attorney

Counsel for the Defence:

Milenko Radovic

1. As President of the International Criminal 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"), I am seized of the "Motion by the Prosecutor under Rule 11 *bis* of Rules of Procedure and Evidence for Referral of Indictment to Another Court" that was filed on 21 September 2004.
2. In 1996, the Prosecutor indicted Radovan Stankovic for crimes allegedly committed while he was serving as a Bosnian Serb soldier during the armed conflict in Bosnia and Herzegovina (BiH). He was brought to the Tribunal in 2002, and is currently awaiting trial. The Prosecutor has now filed a motion under Rule 11 *bis*, requesting that a Trial Chamber transfer Stankovic's case to the BiH authorities for trial in the War Crimes Chamber of the State Court.
3. The Prosecutor has filed a similar motion in the case of *Prosecutor v. Mejakic et al*, No. IT-02-65-PT, which likewise involves a series of crimes allegedly committed in BiH. For the reasons discussed in my response to the Prosecutor's motion in that case, *see Prosecutor v. Mejakic et al*, No. IT-02-65-PT, Preliminary Order in Response to the Prosecutor's Request under Rule 11 *bis*, 22 September 2004, para. 7-10 (requesting further briefing from the Prosecutor), it appears possible that BiH is not prepared to receive

11 *bis* transfers at the present time. I will therefore postpone ruling on the present motion until I receive the prosecution's supplementary motion in *Mejacic*, which is scheduled to be delivered to me by October 1, 2004. My disposition of the Prosecutor's motion in the present case will be rendered after that time.

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

Dated this 27th day of September 2004,
At The Hague,
The Netherlands.

Judge Theodor Meron
President

[Seal of the International Tribunal]