UNITED
NATIONS

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: 7 November 2008

ENGLISH

Original: French

IN TRIAL CHAMBER III

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

Registrar: **Mr Hans Holthuis**

Decision of: **7 November 2008**

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

DECISION ON PROSECUTION MOTIONS CONCERNING THE TESTIMONY OF DAVOR STRINOVIĆ

The Office of the Prosecutor

Mr Daryl Mundis
Ms Christine Dahl

The Accused

Mr Vojislav Šešelj

I. INTRODUCTION

1. 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") is seized of two Prosecution motions related to the testimony of Davor Strinović ("Witness").

2. The Chamber will deal with these motions jointly since they both relate to the testimony of the Witness scheduled for 11 November 2008.

II. PROCEDURAL BACKGROUND

3. On 13 July 2006, the Prosecution submitted, pursuant to Rule 94 *bis,* the "Expert Report of Professor Dr. Davor Strinović" dated 17 January 2003 with its related exhibits and requested the admission of the transcripts of the Witness's evidence from the *Milošević* and *Mrkšić* cases pursuant to Rule 92 *bis* (D) of the Rules of Procedure and Evidence ("Rules") ("Motion of 13 July 2006").[1]

4. On 9 February 2007, the Accused received the BCS translation of the Motion of 13 July 2006.[2]

5. On 16 April 2007, the Accused filed his response to the Motion of 13 July 2006.[3] In it, the Accused (1) one the one hand, requested a hard-copy of the expert report in BCS, indicating that only after receiving this would he submit a response within a time-limit set by the Chamber[4] but, on the other hand, stated that he was already objecting to the Witness's statement and that he wished to cross-examine the

[1] Prosecution's Submission of the Expert Report of Professor Dr. Davor Strinović pursuant to Rule 94 *bis* and Motion for the Admission of Transcripts pursuant to Rule 92 *bis* (D), dated 12 July 2006 and filed on 13 July 2006.
[2] *Procès-Verbal* of Reception of documents, signed by the Accused on 9 February 2007.
[3] Professor Vojislav Šešelj's Official Notice Concerning the Expert Report by Professor Dr. Davor Strinović pursuant to Rule 94 *bis* and Response to the Prosecution's Motion for the Admission of Transcripts pursuant to Rule to Rule 92 *bis* (D), dated 29 March 2007 and filed on 16 April 2007 ("Response"). Concerning the time-limit for the response, the Accused stated that he filed this response within the time-limit set during the status conference of 13 March 2007.
[4] Response, p. 5.

witness and challenge his expert status as well as the relevance of the report[5] and (2) asked that the request to admit the transcripts from previous cases be denied.[6]

6. On 9 July 2007, the Chamber ordered the Prosecution to disclose to the Accused as soon as possible the "Expert Report of Professor Dr. Davor Strinović" in hard-copy and in BCS.[7]

7. On 25 July 2007, the Prosecution informed the Chamber that the Motion of 13 July 2006 had been printed and was in the process of being translated.[8]

8. On 1 October 2007, the Prosecution allegedly disclosed the 2003 "expert report" to the Accused.[9] Between 30 October 2007[10] and March 2008,[11] all of the annexes to the Motion of 13 July 2006 were allegedly disclosed to the Accused in hard-copy and in a language he understands.

9. On 7 January 2008, the Chamber stayed its ruling on the request for admission of the transcripts of the Witness's evidence from other cases pending a ruling on his status as an expert.[12]

10. Initially, the Witness was scheduled to testify on 25 March 2008.[13] During the hearing of 18 March 2008, the Prosecution announced that the Witness would appear in April rather than on the date scheduled, in order to give him the opportunity to update his report which had been prepared in 2003.[14] During that same hearing, the

[5] Response, p. 3.
[6] Response, p. 5.
[7] Decision on Submission Number 240 Regarding the Disclosure of Documents, 9 July 2007, p. 3.
[8] Prosecution Report Regarding Disclosure of Materials Identified in the Decision Concerning Submission 240, 25 July 2007, p. 2.
[9] Prosecution *Procès-verbal* no. 75.
[10] *See procès-verbal* of reception of documents, 30 October 2007.
[11] *See* Prosecution *procès-verbaux* of 26, 67, 132, 185, 186, 197, 209, 221, 250.
[12] 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. A public version of this decision was filed on 21 February 2008. *See* also Second 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, 27 February 2008, para. 5. A public version was filed on the same day.
[13] *See* Witness Schedule, confidential, 7 March 2008.
[14] Hearing of 18 March 2008, Transcript in French ("T(F)") 4883-4885.

Accused stated that he did not consider that the report was an expert report,[15] which was confirmed by the Chamber.[16]

11. On that occasion, the Chamber indicated that the "report" consisted of only three pages and some tables, and that it was incomplete and had to be disclosed 30 days before the appearance of the expert in order to give the Accused an opportunity to respond.[17] The Prosecution indicated that it would take the Chamber's observations into account when asking the Witness to revise his report and that it would give the Accused 30 days to respond if he needed them.[18]

12. On 19 March 2008, the Prosecution stated that the Witness would not appear in April but rather at a later date, since it had asked him to provide a new report in accordance with Rule 94 *bis*, which would be disclosed [to the Accused and the Chamber] at least 30 days before calling the Witness.[19]

13. The new report ("New Report") was allegedly disclosed to the Accused on 30 June 2008,[20] which the Accused confirmed during the hearing of 1 July 2008 when he announced that he had received the "new report" of Davor Strinović and that, according to the Prosecution, there were new submissions accompanying what he received:

> THE ACCUSED: Well, yesterday I received from the Prosecution a new report of Davor Strinović, and you remember you gave the Prosecution the task of having a new expert report for Davor Strinović. And under 92 - 94 *bis*, they said they would attach what they submitted to me yesterday. However, what I received yesterday is two and a half pages, a text of just two and a half pages, so that can't be an expert report or an expert statement. What it is is that the expert is responding to six questions posed to him by the Prosecution, so I don't consider this to be an expert report at all.[21]

14. On 18 September 2008, the Prosecution disclosed the "[New] expert report of Professor Dr Strinović" pursuant to Rule 94 *bis* and requested (1) leave to amend its

[15] Hearing of 18 March 2008, T(F) 4884. The next day, the Accused repeated that the "expert report did not exist", *see* hearing of 19 March 2008, T(F) 5014.
[16] Hearing of 18 March 2008, T(F) 4885.
[17] Hearing of 18 March 2008, T(F) 4886-4887.
[18] Hearing of 18 March 2008, T(F) 4888.
[19] Hearing of 19 March 2008, T(F) 5015.
[20] *See* Motion of 18 September 2008, para. 7.
[21] Hearing of 1 July 2008, T(F) 8837.

list of exhibits in order to add the expert report and (2) judicial notice of evidence under Rule 94 (B) ("Motion of 18 September 2008").[22]

III. PRELIMINARY REMARKS

15. There are two parts to the Motion of 13 July 2006:

(1) the request for admission under Rule 94 *bis* of the Strinović expert report dated 17 January 2003 and related exhibits ("Annex A to the Motion of 13 July 2006") and;

(2) the request for admission of the following under the [former] Rule 92 *bis* (D):

- transcripts of the Witness's evidence in the *Milošević* case dated 13 and 14 March 2003 ("Annex B to the Motion of 13 July 2006");

- exhibits presented in the *Milošević* case ("Annex C to the Motion of 13 July 2006");

- transcripts of the Witness's evidence in the *Mrkšić* case dated 23 and 24 May 2006 ("Annex D to the Motion of 13 July 2006");

- exhibits presented in the *Mrkšić* case ("Annex E to the Motion of 13 July 2006");

16. There are three parts to the Motion of 18 September 2008:

(1) the request for admission under Rule 94 *bis* of the "[New] Strinović expert report" transmitted on 25 May 2008[23] with related exhibits ("Annex A to the Motion of 18 September 2008");

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[22] Prosecution's Submission of the Expert Report of Dr Davor Strinović pursuant to Rule 94 *bis* and Motion for Leave to Amend Exhibit List to Add the Expert Report and to Take Judicial Notice of Documentary Evidence pursuant to Rule 94 (B), 18 September 2008.

[23] The Prosecution indicates that it received the New Report from the Witness on 25 May 2008, *see* Motion of 18 September 2008, para. 6. In Annex A to the Motion of 18 September 2008, the date indicated is 26 May 2008. Nonetheless, no date is indicated on the New Report.

(2) the request under Rule 65(E)(iii) to add the New Report to the list of exhibits;

(3) the request for judicial notice of the following documentary evidence under Rule 94 (B):

- exhibits admitted in the *Milošević* case ("Annex B to the Motion of 18 September 2008");

- exhibits admitted in the *Mrkšić* case ("Annex C to the Motion of 18 September 2008");

17. Upon a request for clarification from the Chamber dated 4 November 2008, the Prosecution specified that the legal basis for its request for admission of exhibits from the *Milošević* and *Mrkšić* cases is Rule 94 (B) or, alternatively, Rule 92 *bis* (D).[24]

IV. THE ISSUE OF EXPERT STATUS

18. The Chamber briefly recalls that the recognition as an expert of a witness called by one of the Parties is a matter within the discretionary power of the Chamber in view of the elements presented by that Party,[25] and refers to its previous decisions on the law applicable to matters relating to expert status.[26]

19. Although it is not specified by the Prosecution in any of its motions, the Chamber finds that Witness's field of expertise covers exhumation processes and forensic medicine. The New Report is limited to the exhumations that took place principally at Ovčara, to the identification of bodies and their causes of death.

20. The Witness's *curriculum vitae* indicates in particular that he has a degree in medicine, with specialization in forensic medicine at the University of Zagreb

[24] Hearing of 4 November 2008, T(F) 11304.
[25] *The Prosecutor v. Popović et al.*, Case No. IT-05-88-AR73.2, Decision on Joint Defence Interlocutory Appeal Concerning the Status of Richard Butler as an Expert Witness, 30 January 2008, para. 20; *Sylvestre Gacumbitsi v. The Prosecutor*, Case No. ICTR-2001-64-A, Appeal Judgement, 7 July 2006, para. 31.
[26] Decision on the Expert Status of Ewa Tabeau, 15 October 2008, pp. 2-3; Decision on Expert Status of Andras Riedlmayer, 8 May 2008, pp. 1-2; Decision on Expert Status of Reynaud Theunens, 12

Medical School Institute of Forensic Medicine. The Witness holds the following university degrees: "Medical Doctor",[27] "Master of Science"[28] and "Doctor in Science".[29] With regard to his professional experience, the Witness is an "Associate Professor"[30] at the University of Zagreb Medical School Institute of Forensic Medicine where he has worked for more than 30 years. The Witness is a member of forensic associations and has been a member of the Republic of Croatia Government Commission for Detained and Missing Persons since 1991. The Witness was an expert for the Council of Europe's "European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ("CPT")[31] and conducted research in forensic medicine.

21. The Chamber considers, in light of the information at its disposal, in particular the experience the Witness gained from his role as coordinator of the Republic of Croatia Government Commission for Detained and Missing Persons medical team dealing with exhumation procedures, examinations and identification, that the Witness is authorized to testify as an expert within the meaning of Rule 94 *bis* of the Rules on the subject matter raised in his report.

22. The Chamber notes that the Witness has already given expert evidence for the Prosecution before the Tribunal.[32]

23. When the "first" report was disclosed, the Accused stated that he (1) was challenging the expert status and the relevance of the report, (2) challenging the statement of the Witness, and (3) wished to cross-examine the witness.[33] During the hearing of 18 March 2008, the Accused further stated that he did not consider this report as an expert report.[34]

February 2008, pp. 6-8; Decision on the Qualifications of Expert Yves Tomić, 15 January 2008, pp. 2-3; Decision on Anthony Oberschall's Status as an Expert, 30 November 2007 pp. 2-3.
[27] As stated in the *curriculum vitae*, (Dr.)
[28] As stated in the *curriculum vitae*, (Mr.)
[29] As stated in the *curriculum vitae*, (Dr. Sci.)
[30] As stated in the *curriculum vitae*, Associate Professor.
[31] The *curriculum vitae* does not mention the date, however, the Council of Europe website indicates that in 1998 the Witness was elected to a four-year term as a member of the CPT.
[32] Cases IT-02-54 *("Milošević")* and IT-95-13 *("Mrkšić et al.")*.
[33] Response, p. 3.
[34] Hearing of 18 March 2008, T(F) 4884.

24. As soon as the "New Report" was disclosed, the Accused repeated that he did not consider that what he had received was an expert report, or even an expert statement.[35]

25. In light of the objections raised by the Accused, the Chamber considers that the Witness should appear before the Chamber in order to answer questions from the Prosecution, the Accused and possibly the Chamber. During the cross-examination, the Accused will have the opportunity to dispute the probative value, relevance and reliability of the findings in the New Report.

V. ADDITION OF THE NEW REPORT TO THE PROSECUTION'S 65 *TER* LIST

26. In the Motion of 18 September 2008, the Prosecution requests leave to add the New Report to its 65 *ter* List.

27. While the Chamber is free to authorize amendments to the 65 *ter* list by virtue of its inherent discretionary power in conducting the trial,[36] it must ensure, when granting a request for the addition of exhibits to the 65 *ter* list, that the rights of the Accused are respected by making sure that the proposed exhibits are disclosed sufficiently in advance and that this addition will not hinder the Accused in the preparation of his defence.[37]

28. Since he received the New Report over four months ago, the Accused will not suffer any prejudice that would prevent the addition of the said document to the 65 *ter* list. The Chamber therefore authorizes the addition of the New Report to the 65 *ter* list.

29. The Chamber will rule on the admission into evidence of the New Report in light of the testimony of the Witness in the present case.

[35] Hearing of 1 July 2008, T(F) 8837.
[36] *The Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Radivoje Miletić, Milan Gvero and Vinko Pandurević,* Case No. IT-05-88-AR73.1, Decision on Appeals against Decision Admitting Material Related to Borovčanin's Questioning, 14 December 2007, para. 37.
[37] *The Prosecutor v. Milan Martić,* Case No. IT-95-11-PT, Decision on Prosecution's Motion to Amend Its Rule 65 *ter* Exhibit List, 15 December 2005, p. 3 and *The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić,* Case No. IT-04-74-T, Decision on List of Exhibits, 7 September 2004, p. 4.

VI. JUDICIAL NOTICE OF DOCUMENTARY EVIDENCE PURSUANT TO RULE 94 (B)

1. Arguments of the Parties

30. The Prosecution requests the admission under Rule 94 (B) of the Rules of Annexes B and C to the Motion of 18 September 2008, which include exhibits admitted in the *Milošević* and *Mrkšić* cases.

31. The Prosecution argues that these exhibits satisfy the admissibility criteria under Rule 94 (B) of the Rules in that they (1) were admitted in already "adjudicated" proceedings, i.e. the *Mrkšić* case, and "previous" proceedings, i.e. the *Milošević* case, and (2) are relevant and probative with respect to the current proceedings.[38] The Prosecution adds that the documents (expert reports with annexes, photographs, identification documents, autopsy reports) are relevant with respect to the events in Vukovar and Voćin as alleged in the Indictment (count 4, paragraphs 20 and 21 concerning Vukovar).[39]

32. At the hearing of 4 November 2008, the Accused did not seem to object to the admission of each document by way of judicial notice. Nonetheless, he did express his preference for a request for admission to be made in the habitual way.[40] Although the oral response of the Accused is out of time, the Chamber accepts it in light of the complexity surrounding the procedure related to the Witness.

2. Applicable Law

33. Rule 94 (B) of the Rules provides that "at the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of

[38] Motion of 18 September 2008, para. 14.
[39] Motion of 18 September 2008, paras. 16-17.
[40] *See* hearing of 4 November 2008, T(F) 11305:

> "The Accused: [...] fifthly, and most importantly, if we are talking about documents that have been tendered in other cases, then it didn't cost the OTP anything to adapt those documents to this particular case, to designate them numbers within this case, and to find them as such - tender them as such, rather than have me investigating other cases."

adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings".

34. The Chamber recalls that judicial notice is a matter within the discretionary power of the Chamber. In assessing whether judicial notice is appropriate, the Chamber shall take into account the rights of the Accused and judicial economy.

3. Discussion

35. The Chamber recalls its decision of 16 June 2008 in which it indicated that:

> "[...]the Appeals Chamber seems to indicate implicitly that only the admission of documents by another Chamber is judicially noticed, and hence automatically their authenticity and reliability, but not their content.[41] As Rule 94 (B) requires the Chamber taking notice to verify that the documents are related to the proceedings prior to the judicial notice, the relevance of the documents is not part of what is noticed but must be verified by the Chamber prior to the notice. The authenticity and reliability of the documents, and nothing more, are all that remain for the Chamber to judicially notice. As the weight to attribute to each of the documents remains a matter for deliberation, judicial notice would merely constitute a potentially "accelerated" admission of documents through the notice of their authenticity by the Chamber, which relies on the Trial Chamber that admitted them previously. Nevertheless, neither the Chamber in the *Bizimungu* case nor the Appeals Chamber indicate what the effects of judicial notice of documents would be in the case of a subsequent objection by the opposing party to the authenticity of a document admitted in this manner.[42]"[43]

[41] In the *Nikolić* Decision, the Appeals Chamber does not explicitly explain whether the judicial notice of documents refers to their content or simply their admission. However, it cites the ICTR's *Bizimungu* Decision and agrees with its interpretation concerning the absence of the need to have conclusively adjudicated the judicially noticed documents; however, in the *Bizimungu* Decision, the direct consequence of this interpretation was the judicial notice of only the existence and authenticity of the documents, and not their content, *see Nikolić* Decision, para. 45 citing the *Bizimungu* Decision, and *see* the *Bizimungu* Decision, para. 44.

[42] The Trial Chambers which have adjudicated on this rule following the *Nikolić* Decision have different interpretations of the rule as regards its effects, although they cite this decision, which appears to shed light on the problems surrounding this procedure: *see Milutinović et al.,* where the Chamber indicates that, contrary to the Prosecution allegations, the judicially noticed documents must be used for their content and not merely for their existence and authenticity, *The Prosecutor v. Milutinović et al.,* Case No. IT-05-87-T, Decision on Prosecution Motion to Admit Documentary Evidence, 10 October 2006; other Chambers have also followed this interpretation: *see The Prosecutor v. Rasim Delić,* Case No. IT-04-83-PT, Decision on Prosecution's Motion for Admission of Documentary Evidence Pursuant to Rule 94 (B), 9 July 2007, p. 4 and *The Prosecutor v. Dragomir Milošević,* Case No. IT-98-29/1-T, Decision on Prosecution's Motion for Admission of Documentary Evidence Pursuant to Rule 89 (C) and Rule 94 (B) of the Rules, 24 January 2007, p. 3.

36. In the present case, although the Prosecution argues that the admission by way of judicial notice would serve the objective of judicial economy by reducing the time necessary to admit these documents, which have already been admitted in two trials before the Tribunal, and allowing for the focus to be on the genuine issues regarding Vukovar and Voćin,[44] the Chamber is not convinced that the time would be substantially affected were the request for admission to be made by way of the witness.

37. Accordingly, the Chamber refuses to take judicial notice of the documents contained in Annexes B and C of the Motion of 18 September 2008.

VII. ADMISSION OF THE TRANSCRIPTS OF THE EVIDENCE OF THE WITNESS AND RELATED EXHIBITS FROM OTHER CASES PURSUANT TO RULE 92 *TER*

1. Arguments of the Parties

38. Alternatively, the Prosecution requests, pursuant to Rule 92 *ter*,[45] the admission of Annexes B, C, D and E to the Motion of 13 July 2006 (transcripts of evidence of the Witness from the *Milošević* and *Mrkšić* cases and related exhibits).

39. The Accused already objected to this request in his Response[46] and reiterated his strong objection during the hearing of 4 November 2008.[47]

[43] Decision on Prosecution Motions for Judicial Notice of Documents Pursuant to Rule 94 (B), 16 June 2008.
[44] *See* Motion of 18 September 2008, para. 22.
[45] *See* the consolidated motion filed confidentially and *ex parte* by the Prosecution on 22 October 2007 pursuant to Rules 92 *ter* and 92 *quater* of the Rules entitled "Prosecution's Clarification of the Pending Motions for Admission of Statements pursuant to Rule 89 (F), 92 *bis*, 92 *ter*, and 92 *quater*". Originally, this request was founded on Rule 92 *bis* (D) (*see* Motion of 13 July 2006, paras. 1 and 4.)
[46] Response, p. 5.
[47] Hearing of 4 November 2008, T(F) 11305.

2. Applicable Law

40. The Chamber recalls that Rule 92 *ter* of the Rules provides that the Trial Chamber may admit, in whole or in part, the evidence of a witness in the form of a written statement or transcript of evidence given by a witness, provided the conditions set out in Rule 92 *ter* (A) of the Rules have been met.[48] In all other respects, the Chamber refers to its Decision of 7 January 2008 setting out in detail the applicable law under Rule 92 *ter* of the Rules.[49]

3. Discussion

41. As the Prosecution did not specify the relevant pages of the transcripts for the present case –these transcripts thus contain passages that do not cover the events related to Vukovar and Voćin – the Chamber considers that the Prosecution has failed to sufficiently demonstrate the relevance of the transcripts of the Witness's evidence from the *Milošević* and *Mrkšić* cases for the needs of this case.

42. Moreover, the Chamber notes that the transcripts of evidence from the *Milošević* and *Mrkšić* cases total several hundred pages – nearly 300 – and will not be admitted until the formal requirements of Rule 92 *ter* have been met, especially the attestation by the Witness that the transcripts accurately reflect his declaration and what he would say if examined.

43. The Chamber finds that admitting these transcripts and the numerous related exhibits through the procedure established in Rule 92 *ter* would not serve the purpose of expeditiousness and efficiency sought by the introduction of this Rule into the Rules.

[48] Presence of the witness in court in order to be cross-examined and possibly questioned by the Judges, attestation and confirmation of the content of the written statement or transcript of evidence.
[49] Decision of 7 January 2008, paras. 22-28.

44. Accordingly, the Chamber considers that it is not in the interests of justice to permit the Witness to testify before the Chamber on the basis of Rule 92 *ter* of the Rules.

VIII. FINAL OBSERVATIONS

45. Once again, the Chamber wishes to recall the guidelines intended to govern the presentation of evidence and the conduct of the Parties during the trial as set out in the annex to the Order of 15 November 2007 ("Guidelines"), in which the Chamber informed the Parties that the admission of evidence is to be requested through a witness, unless there are exceptional circumstances which are to be examined on a case-by-case basis.[50]

46. The Chamber can only reiterate its preference that requests to admit materials into evidence be made through a witness, especially since the Prosecution informed the Chamber during the hearing of 4 November 2008 of its intention to call the Witness next week.[51] The Chamber does not therefore consider that there are exceptional circumstances that would justify the admission of documents which have not been put to a witness.

XI. DISPOSITION

47. For these reasons, in accordance with Rules 54, 65 *ter,* and 94 *bis* of the Rules, the Chamber **PARTIALLY GRANTS** the Motions of 13 July 2006 and 18 September 2008.

48. The Chamber **ORDERS** that

(i) the Witness shall appear before the Chamber as an expert to be examined by the Parties and, where appropriate, the Chamber;

[50] Guidelines, Annex 1, para. 1.
[51] Hearing of 4 November 2008, T(F) 11304.

(ii) the direct examination shall not exceed 1.30 hours; and

(iii) the cross-examination shall not exceed 1.30 hours.

DENIES the two Motions in all other respects.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

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

[Seal of the Tribunal]