



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: 8 October 2008
Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti
Judge Árpád Prandler
Judge Stefan Trechsel
Reserve Judge Antoine Kesia-Mbe Mindua

Registrar: Mr Hans Holthuis

Order of: 8 October 2008

THE PROSECUTOR

v.

Jadranko PRLIĆ
Bruno STOJIĆ
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ĆORIĆ
Berislav PUŠIĆ

PUBLIC

**DECISION ON PRALJAK MOTION TO ADMIT EXPERT REPORT AND
RELATED VIDEOTAPES AND TO EXPAND THE MANDATE OF THE
APPOINTED EXPERT**

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 Ćorić
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”),

SEIZED of Praljak’s Motion to Presently Admit the Expert Opinion of Dr. Janković on the Old Bridge and Related Video Tapes, and to Expand the Mandate of the Appointed Expert, filed by Counsel for the Accused Slobodan Praljak (“Praljak Defence”) on 16 September 2008 (“Motion”), in which the Praljak Defence requests the Chamber (1) to presently admit the report entitled Analysis of the Destruction of the Old Bridge According to Accessible Video Tapes, prepared by Slobodan Janković (“Report”)¹ and the videotapes that were used to prepare the Report² and (2) to expand the mandate of the expert designated in accordance with the Order for the Production of Additional Evidence and for the Appointment of an Expert Witness for the Chamber, rendered by the Chamber on 9 September 2008 (“Order”), such that any videotapes of the collapse of the Old Bridge of Mostar be included,³

NOTING the Order in which the Chamber ordered *proprio motu* (1) the Registry of the Tribunal to designate, after seeking the opinion of the Praljak Defence, an expert (“Designated Expert”) tasked with obtaining original and unaltered video material as recorded by the cameras of the collapse of the Old Bridge of Mostar as well as videotapes broadcast by ORF 2 and TV Mostar television stations; (2) the Designated Expert to prepare a report that would reply to a series of questions concerning the authenticity or possible alterations of the above-mentioned videotapes as well as the videotapes that were used to prepare the Report,⁴

CONSIDERING that none of the other Parties has responded to the Motion,

CONSIDERING that in support of the Motion, the Praljak Defence maintains that the Report and the videotapes used to prepare the Report have the probative value

¹ Motion, paras. 3, 4 and 32; Slobodan Praljak’s Submission of the Expert Reports of Slobodan Janković, tendered by the Praljak Defence for admission by the Chamber, 9 May 2008.

² Motion, paras. 3, 4 and 32. The videotapes that were used to prepare the Report were filed as IC 00820 and IC 00821.

³ Motion, paras. 5 and 32.

⁴ Order.

required by Rule 89 (C) of the Rules of Procedure and Evidence (“Rules”);⁵ that the Report and videotapes used to prepare the Report are authentic⁶ and that consequently the Chamber should presently admit the Report and the videotapes used to prepare the Report,⁷

CONSIDERING that in the Order, the Chamber found it necessary to have a precise idea of the authenticity of the videotapes used to prepare the Report in order to be able to rule on the admission of the Report,⁸

CONSIDERING that in the Order, the Chamber provided for the Parties to be able to file their observations within two weeks following receipt of the report prepared by the Designated Expert,⁹

CONSIDERING, consequently, that the Praljak Defence will be able to present its arguments on the preparation of the Designated Expert’s report and on any possible consequences this report will have on the probative value of the Report and videotapes used to prepare the Report, as well as any other observation as appropriate,

CONSIDERING that in the Motion, the Praljak Defence furthermore recommended that the Chamber expand the mandate of the Designated Expert in order to obtain any available videotapes on the collapse of the Old Bridge of Mostar – including videotapes that have never been submitted by any of the Parties, as well as all the versions of the videotapes of the collapse of the Old Bridge of Mostar that were submitted by the Office of the Prosecutor (“Prosecution”),¹⁰

CONSIDERING that the Chamber recalls that it should presently rule on the admission of the Report and not draw any conclusions regarding the destruction of the Old Bridge of Mostar,

CONSIDERING that the Chamber notes that the only videotapes in dispute are those that were used to prepare the Report,

⁵ Motion, paras. 4 and 14 to 23.

⁶ Motion, paras. 24 to 27.

⁷ Motion, paras. 4, 23 and 27.

⁸ Order.

⁹ *Ibidem*.

¹⁰ Motion, paras. 5 and 28 to 32.

CONSIDERING that with regard to the videotape submitted by the Prosecution, it was already admitted as P 01040 through witness Enes Delalić by the decision of 4 July 2007,¹¹

CONSIDERING that consequently this issue in the Motion is moot,

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 54 of the Rules

DENIES the Motion for the reasons set out in the present Decision.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this eighth day of October 2008
At The Hague
The Netherlands

[Seal of the Tribunal]

¹¹ Order to Admit Evidence Relative to Witness Enes Delalić, 4 July 2007.