



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: 22 April 2009
Original: ENGLISH
French

IN TRIAL CHAMBER III

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

Acting Registrar: John Hocking

Order of: 22 April 2009

THE PROSECUTOR

v.

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

PUBLIC

**ORDER ON THE QUALIFICATIONS AS EXPERT AND MODE OF
QUESTIONING OF WITNESS JOSIP JURČEVIĆ**

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 Slobodan Praljak’s Submission of the Expert Report of Dr Josip Jurčević filed on 16 March by Counsel for the Accused Praljak (“Praljak Defence”), to which three annexes are appended (“Disclosure”) and by means of which the Praljak Defence discloses to the Chamber and the Parties, pursuant to Rule 94 *bis* of the Rules of Procedure and Evidence (“Rules”), the historical Expert Report of witness Josip Jurčević (“Witness”) entitled “Bosnia and Herzegovina 1990-1995” (“Expert Report”),

NOTING the submission “Slobodan Praljak’s Supplement to the Submission of the Expert Report of Dr Josip Jurčević” filed by the Praljak Defence on 19 March 2009, to which is appended an annex by means of which, due to a technical problem, the Praljak Defence re-filed, with the Registry one of the annexes appended to the Disclosure,

NOTING the Praljak Defence team’s witness schedule of 7 April 2009 indicating that the Praljak Defence intends to call the Witness to testify from 6 July 2009 for a duration of three hours,¹

NOTING the Notices filed by Counsel for the Accused Stojić (“Stojić Defence”), the Prosecutor’s Office (“Prosecution”), Counsel for the Accused Prlić (Prlić Defence”) and Counsel for the Accused Petković (“Petković Defence”), filed with the Registry on 14 April 2009,² 15 April 2009,³ and 16 April 2009⁴ respectively, pursuant to Rule 94 *bis* (B) of the Rules, informing the Chamber of their intention to cross-examine the Witness,

¹ Praljak Defence team’s witness schedule sent by e-mail to the Chamber on 7 April 2009.

² Bruno Stojić’s Notice pursuant to Rule 94 *bis* (B) to cross-examine Praljak Defence Expert Witness Dr Josip Jurčević, 13 April 2009, (“Stojić Defence Notice”); Prosecution Notice regarding Slobodan Praljak’s filings tendered concerning expert witnesses Dr Josip Jurčević and Dr Valdo Sakić, 14 April 2009, (“Prosecution Notice”).

³ Jadranko Prlić’s Notice pursuant to Rule 94 *bis* (B) to cross-examine Praljak Defence Expert Witnesses Dr Josip Jurčević and Dr Vlado Sakić, 15 April 2009 (“Prlić Defence Notice”).

⁴ Petković Defence Notice pursuant to Rule 94 *bis* (B) concerning Praljak Defence Expert Witnesses Dr Josip Jurčević and Dr Vlado Sakić, 16 April 2009 (“Petković Defence Notice”).

CONSIDERING that, as a preliminary matter, Counsel for the Accused Čorić and Pusić did not file a notice informing the Chamber of their intention to cross-examine the Witness,

CONSIDERING that the Chamber notes that the Petković Defence filed the Petković Defence Notice on 16 April 2009, namely one day after the expiry of the prescribed thirty-day period for reply in accordance with Rule 94 *bis* of the Rules,

CONSIDERING that the Chamber therefore finds the Petković Defence Notice inadmissible,

CONSIDERING that, in anticipation of the Witness' appearance, the Chamber must rule on the qualifications of the said Witness, whose testimony is scheduled for 6 to 9 July 2009,

CONSIDERING that the Chamber reminds the Prosecution and the Stojić and Prlić Defence teams that, pursuant to Rule 94 *bis* (B) (iii) of the Rules, "the opposing Party shall indicate to the Chamber if it challenges the qualifications of the witness as an expert or the relevance of all or parts of the report and/or the statement, and if so, which parts",

CONSIDERING that the Chamber notes that, in their respective Notices, neither the Prosecution nor the Stojić and Prlić Defence teams provide an assessment of the Witness' qualifications as an expert and do not indicate whether they accept the Expert Report or not,

CONSIDERING that, having perusing the Expert Report and *Curriculum Vitae* of the Witness attached in Annex B of the Disclosure, the Chamber considers that the Witness is, *prima facie*, able to testify in his capacity as an expert historian on questions relating to the political and social context of the Republic of Bosnia-Herzegovina between 1990 and 1995 and on political relations and humanitarian and logistical cooperation between the Republic of Croatia and Bosnia-Herzegovina between 1991 and 1995,

CONSIDERING that the Chamber therefore authorises the Witness to testify in his capacity as an expert, and that the Praljak Defence will have three hours to conduct its examination-in-chief and any possible re-examination,

CONSIDERING that the Chamber notes, however, that certain excerpts from the Expert Report focus on events which allegedly took place outside of the periods relevant to the Amended Indictment of 11 June 2008, notably with reference to the history of Bosnia Herzegovina from antiquity to 1989 and events preceding 1991,

CONSIDERING that, for reasons of judicial economy, the Chamber therefore invites the Praljak Defence, during its examination of the Witness, to concentrate on those parts of the Expert Report which are relevant to the time-frame of the Amended Indictment,

CONSIDERING that, in the absence of any specific or reasoned request on the part of the Prosecution with regard to the time required for the conduct of the cross-examination, it is appropriate to comply with the practice of the Chamber which allows the Prosecution 100% of the time allocated for the direct examination to conduct its cross-examination and re-examination,⁵

CONSIDERING that the Chamber therefore decides that the Prosecution will be granted three hours to conduct its cross-examination of the Witness,

CONSIDERING that, with regard to the cross-examination to be conducted by the Stojić and Prlić Defence teams, the Chamber also assumes that, in the absence of any specific or reasoned request in accordance with paragraph 16 of the Decision of 24 April 2008, it is appropriate to comply with the practice of the Chamber which allows the Defence teams 50% of the time allocated for the direct examination and re-examination,⁶

CONSIDERING that the Chamber therefore decides that the Stojić and Prlić Defence teams shall share a time span of one and a half hours for the purposes of conducting their respective cross-examinations,

FOR THE FOREGOING REASONS,

⁵ Decision Adopting Guidelines for the Presentation of Defence Evidence, 24 April 2008 ("Decision of 24 April 2008"), para. 14.

⁶ Decision of 24 April 2008, para. 15.

PURSUANT TO Rules 89 (C), 90 (F), 94 *bis* and 126 of the Rules,

FINDS the Petković Defence Notice inadmissible for the foregoing reasons and therefore does not authorise its cross-examination of the Witness,

DECIDES that Expert Witness Josip Jurčević shall appear before the Chamber as an Expert Witness from 6 to 9 July 2009,

DECIDES that the Praljak Defence will be granted three hours to conduct its direct examination and any possible re-examination of Expert Witness Josip Jurčević,

DECIDES that the Prosecution shall be granted three hours to conduct the cross-examination of Expert Witness Josip Jurčević,

AND,

DECIDES that the Stojić and Prlić Defence teams shall be granted one and a half hours in total to conduct the cross-examination of Expert Witness Josip Jurčević.

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

/signed/

Judge Jean-Claude Antonetti
Presiding Judge

Done this twenty-second day of April 2009

At The Hague

The Netherlands

[Seal of the Tribunal]