



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: 5 June 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

Decision of: 5 June 2008

THE PROSECUTOR

v.

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

PUBLIC

**DECISION REGARDING QUESTIONS ASKED BY THE JUDGES DURING
THE EXAMINATION OF A WITNESS IN COURT**

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 a motion for clarification of the Chamber’s practice in relation to the mode of questions put to witnesses by the Judges of the Chamber during the direct or cross-examination by the Parties, presented by the Office of the Prosecutor (“Prosecution”) during the hearing of 29 May 2008 (“Motion”),¹

CONSIDERING that Counsel for the Accused Stojić and Petković (“Stojić and Petković Defences”) joined the Motion,²

NOTING the “Decision on the Mode of Interrogating Witnesses”, rendered by the Chamber on 10 May 2007 (“Decision of 10 May 2007”), in which the Chamber took note of the remarks of the parties related to the mode of examining witnesses, while recalling that under Rules 85 (B), 90 (F) and (H) of the Rules of Procedure and Evidence (“Rules”), a Judge may at any stage put any question to a witness,³

CONSIDERING that in support of the Motion, the Prosecution argues in particular that the long and frequent interventions by the Judges affect the very quality of the examination of a witness by the parties,⁴

CONSIDERING that the Prosecution as well as the Stojić and Petković Defences have proposed to the Chamber that it wait for each party respectively to complete its examination of the witness before it puts questions to that witness,⁵

CONSIDERING that the Chamber, having analyzed the arguments of the parties, first decides to maintain the Decision of 10 May 2007,

CONSIDERING that, this being the case, in order to allow the parties to conduct the examination of witnesses effectively, the Judges may put their questions to the witness after each party has finished the direct or cross-examination of the witness,

¹ Transcript in French (“T(F)”) pp. 28793 and 28794.

² T(F) pp. 28794 and 28795.

³ Decision of 10 May 2007, pp. 3 and 5.

⁴ T(F) p. 28794.

⁵ T(F) pp. 28793 and 28795.

CONSIDERING nonetheless that the Chamber recalls that pursuant to Rule 85 (B) of the Rules, the Judges are entitled to ask questions at any stage,

CONSIDERING in particular that in the interests of judicial economy, the Judges will not wait for the end of the examination of a witness by a party if they wish to question a witness about a document; they will do so at the time that the document is discussed in court,

FOR THESE REASONS,

IN ACCORDANCE with Rules 85(B), 90 (F) and (H) of the Rules,

MAINTAINS the Decision of 10 May 2007,

DECIDES that the Judges will put their questions to the witnesses in court in the manner described in this decision.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this fifth day of June 2008
At The Hague
The Netherlands

[Seal of the Tribunal]