



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: 8 May 2008
Original: ENGLISH
French

IN TRIAL CHAMBER III

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

Registrar: Mr Hans Holthuis

Decision of: 8 May 2008

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

DECISION ON EXPERT STATUS OF ANDRÁS RIEDLMAYER

The Office of the Prosecutor

Mr Daryl Mundis

The Accused

Mr Vojislav Šešelj

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 the submission of the expert report of András Riedlmayer (“Witness”), filed by the Office of the Prosecutor (“Prosecution”) on 23 May 2006 (“Submission”)¹ including the report of András Riedlmayer (“Report”) in annex and a number of documents annexed to the Report, in particular his *curriculum vitae* (“*Curriculum Vitae*”);

NOTING the receipt of the Report by Vojislav Šešelj (“Accused”) in a language he understands dated 4 October 2006;²

NOTING the Motion by the Accused filed on 22 November 2006 (“Notice”) in which he requested an extension of time to inform the Chamber of his position regarding the Witness and Report;³

CONSIDERING nonetheless that the Accused already stated in his Notice that he challenged the Report, that he wished to cross-examine the Witness and that he challenged the relevance of the whole report, as well as the Witness’s qualifications as an expert;⁴

CONSIDERING in addition that on 15 April 2008 the Accused indicated orally that he did not wish to file additional submissions concerning this Witness;⁵

CONSIDERING that it is the responsibility of the Chamber to determine, in light of the information presented by the Parties, whether the person proposed as an expert witness may be recognized as such;⁶

¹ Prosecution’s Submission of the Expert Report of András Riedlmayer, 23 May 2006.

² Procès-verbal of reception of documents, dated 4 October 2006, signed by the Accused.

³ Motion pursuant to Rule 94 *bis* for Trial Chamber I to set a Time-Limit Within Which Dr Vojislav Šešelj May File a Notice Concerning the Expert Report of András Riedlmayer, presented by the Accused on 13 November 2006 and filed 22 November 2006 (“Notice”).

⁴ Notice, p. 4.

⁵ Hearing of 15 April 2008, French transcript, p. 6007.

⁶ *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.

CONSIDERING that according to the case-law the term “expert” has been defined as “a person who by virtue of some specialised knowledge, skill or training can assist the trier of fact to understand or determine an issue in dispute”;⁷

CONSIDERING that the attribution of the expert status of a witness called by one of the Parties, in view of the information provided by that Party, is a matter within the discretionary power of the Chamber;⁸

CONSIDERING that in the exercise of its discretion, the Chamber may have recourse to *curricula vitae*, articles, publications, professional experience or other information related to the witness for whom the expert qualification is requested;⁹

CONSIDERING that the Witness’s field of expertise, which is not specified by the Prosecution in the Submission, stems from the title of the Report “*Destruction of Cultural Heritage in Bosnia and Herzegovina: A Post-War Survey of the Destruction of Non-Serb Cultural Heritage in the Municipalities of Bijeljina, Bosanski Šamac, Brčko, Mostara, Nevesinje, ‘Greater Sarajevo’ (Ilidža, Ilijaš, Novi Grad/Rajlovac, Novo Sarajevo, Vogošća) and Zvornik during the 1992-95 War, with Specific to the Period September 1991-September 1993*”;

CONSIDERING that the Witness holds a Master of Arts in history and near eastern studies, as well as a Master of Sciences in library and information science, that he is currently a bibliographer of Islamic arts in a documentation centre at Harvard University, and that he is the author of numerous articles, publications, essays and reports dealing with the issue of cultural destruction during the conflict in the former Yugoslavia and in particular in Bosnia and Herzegovina;¹⁰

⁷ Decision on Anthony Oberschall’s Status as an Expert, 30 November 2007 (“*Oberschall Decision*”), p. 2; This decision refers to *The Prosecutor v. Pavle Strugar*, Case No. IT-01-42-PT, Decision on the Defence Motions to Oppose Admission of Prosecution Expert Reports Pursuant to Rule 94 bis, 1 April 2004, p. 4 (“*Strugar Decision*”).

⁸ *Oberschall Decision*, p. 2 referring to *Sylvestre Gacumbitsi v. The Prosecutor*, Case No. ICTR-2001-64-A, Appeal Judgement, 7 July 2006, para. 31.

⁹ *Oberschall Decision*, p. 2 referring to *The Prosecutor v. Dragomir Milošević*, Case No. IT-98-29-T, Decision on Admission of Expert Report of Robert Donia, 15 February 2007, para. 7, and to the *Strugar Decision*, p. 4; cf. also Decision on the Qualifications of Expert Yves Tomić, 15 January 2008, para. 12.

¹⁰ Submission, Annex 2, *Curriculum Vitae*.

CONSIDERING that in light of the Witness's training, professional experience, numerous publications and membership in professional associations, he is familiar with the issue of cultural destruction during the conflict in the former Yugoslavia and that he is therefore entitled to testify as an expert within the meaning of Rule 94 *bis* of the Rules, about the subject matter addressed in his report;

CONSIDERING nonetheless that in light of the objections raised by the Accused, the Witness should appear before the Chamber in order to answer questions from the Prosecution, the Accused and, possibly, the Chamber, and that in cross-examination, the Accused will have the opportunity to challenge the probative value, relevance and reliability of the conclusions contained in the Report;

CONSIDERING that it is in the light of the Witness's evidence in this case that the Chamber will rule on the admission of the report into the record;

FOR THESE REASONS

IN ACCORDANCE WITH Rule 94 *bis* of the Rules

ORDERS that:

- (i) András Riedlmayer shall appear before the Chamber as an expert to be examined by the Parties and, where appropriate, the Chamber;
- (ii) the duration of the direct examination shall not exceed two hours; and
- (iii) the duration of the cross-examination shall not exceed two hours.

/signed/

Jean-Claude Antonetti
Presiding Judge

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

[Seal of the Tribunal]