



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: 27 September 2006
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

Registrar: Mr Hans Holthuis

Decision of: 27 September 2006

THE PROSECUTOR

v.

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

**ORDER TO ADMIT DEFENCE EVIDENCE RELATIVE TO WITNESS
CHRISTOPHER BEESE**

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Daryl Mundis

Counsel for the Accused:

Mr Michael Karnavas and Ms Suzana Tomanović for Jadranko Prlić
Ms Senka Nožica and Mr Peter Murphey for Bruno Stojić
Mr Božidar Kovačić and Ms Nika Pinter for Slobodan Praljak
Ms Vesna Alaburić for Milivoj Petković
Ms Dijana Tomašegović-Tomić and Mr Dražen Plavec for Valentin Ćorić
Mr Fahrudin Ibrišimović and Mr Roger Sahota for Berislav Pušić



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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”),

CONSIDERING that at the hearing of 24 August 2006, the counsels for the Accused Prlić (“Prlić Defence”), the counsels for the Accused Stojić (“Stojić Defence”), the counsels for the Accused Praljak (“Praljak Defence”) and the counsels for the Accused Čorić (“Čorić Defence”) moved for the admission of, respectively, 7, 7, 8 and 8 documents relating to the testimony of Christopher Beese, totalling 30 documents (“Proposed Exhibits”),¹

CONSIDERING that the Chamber has heard the objections raised by the Office of the Prosecutor (“Prosecution”) against the admission of the Proposed Exhibits,

CONSIDERING that, first of all, the Chamber notes that the Stojić Defence moves, *inter alia*, for the admission of documents marked D although the same documents has already been given the mark for identification P,²

CONSIDERING that these documents are identical and in order to avoid putting duplicates in the case file, the Chamber will permanently admit only the documents already marked for identification P, while being careful to note that the admission of these documents were requested by a Defence team,³

¹ Court Transcript in French (“T(F)”), pp. 5472-5476.

² This refers to P 03031(under seal)/2D 00111(under seal) and P 03025/2D 00112.

³ The Chamber also notes that the Praljak Defence moves, *inter alia*, for the admission of documents marked D, which has already been admitted under mark P at an earlier stage of the proceedings: P 3827/3D 00335 and P 2692/3D 00336. Given the fact that these documents are identical and in order to avoid putting duplicates in the case file, the Chamber hereby decides that there is no reason why this evidence should be admitted under mark D.



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CONSIDERING that the Chamber has examined each of the Proposed Exhibits on based on the criteria for admissibility defined in its Decision on Admission of Evidence of 13 July 2006,

CONSIDERING that, with regard to document 3D 00322, which the Praljak Defence requests to be admitted, the Chamber notes that it aims to prove that widespread crimes were committed against the Croats in Konjić municipality, more precisely in Trusina, in Bosnia and Herzegovina,

CONSIDERING that the Chamber recalls established Tribunal's jurisprudence whereby the principle of *tu quoque* does not apply to international humanitarian law in that the obligations generated by this body of law have been "designed to safeguard fundamental human values and therefore must be complied with regardless of the conduct of the other party or parties."⁴

CONSIDERING that the Chamber consequently considers that the evidence submitted with the *only* possible aim of putting forward the *tu quoque* principle of defence would be of no relevance and should therefore not be admitted to the case file,

CONSIDERING that the documents relating to the atrocities committed against the Croats of Bosnia would only be admitted if they tend to disprove any of the allegations made in the Indictment,⁵

⁴ *Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, Dragan Papić, Vladimir Šantić also known as Vlado*, case IT-95-16, Decision on Evidence of the Good Character of the Accused and the Defence of *tu quoque*, 17 February 1999 ("*Kupreškić Decision*"), pp. 3-4. See also *Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, Dragan Papić, Vladimir Šantić also known as Vlado*, case IT-95-16T, Trial Judgment, 14 January 2000, paras. 515-520; *Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković*, case IT-96-23&23/1-A, Appeal Judgement, 12 June 2002 ("*Kunarac Appeal Judgement*"), para. 87.

⁵ See the *Kupreškić Decision*, p. 4; *Kunarac Appeal Judgement*, p. 88.



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CONSIDERING that unless the Defence shows to the Chamber how these documents tend to disprove any of the allegations made in the Indictment and thus have a degree of relevance to the case, the Chamber will not admit it to the case file,

CONSIDERING that in the present case the Praljak Defence has not shown to the Chamber the reason for submitting document 3D 00322 and consequently the Chamber cannot assess its degree of relevance,

CONSIDERING that, for the remainder of the trial, if the Defence moves for the admission through a witness of a document relating to the atrocities committed against Croatian civilians in Bosnia, the Chamber shall request that the counsels for the Defence explain, each time and before presenting such a document to the witness, the reason for presenting it to the witness,

CONSIDERING, moreover, that the Praljak Defence has moved for the admission of documents 3D 00332, 3D 00333 and 3D 00337, aiming to prove the presence of mujahedin in central Bosnia in order to disprove the allegations of HVO propaganda cited in paragraphs 17, 37 and 39(a) of the Indictment,⁶

CONSIDERING that the Prosecution has opposed the admission of these documents on that grounds that it is irrelevant,⁷

CONSIDERING that inasmuch as the Prosecution has indicated that it does not contest the fact that the mujahedin committed the crimes and is prepared to reach an agreement on this point with the Defence in the form of agreed facts,⁸ the Chamber

⁶ T(F) pp. 5409-5410.

⁷ T(F) pp. 5407-5409.

⁸ T(F) pp. 5352-5353.



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does not see how these documents are in any way relevant for the present case and consequently rejects the admission of these documents,

CONSIDERING finally that the Chamber hereby decides to admit into evidence the documents marked “admitted” in the Annex attached to this decision because they were submitted to witness Christopher Beese and have satisfactory indicia of relevance, probative value and reliability,

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 89 of the Rules,

GRANTS the motion of the Prlić Defence,

PARTIALLY GRANTS the motion of the Stojić Defence and the Ćorić Defence,

DECIDES that there are grounds to admit into evidence the documents marked “admitted” in the Annex attached to this decision,

DISMISSES the requests of the Stojić Defence and the Ćorić Defence in all other respects as well as the request of the Praljak Defence, **AND**

REQUESTS that in future the counsels for the Defence explain in advance the relevance for this case of questions put to a witness and the documents aimed at proving that atrocities were committed against the Croats in Bosnia.

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

/signed/

Judge Jean-Claude Antonetti



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Presiding Judge

Done this twenty-seventh day of September 2006
At The Hague
The Netherlands

[Seal of the Tribunal]



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Annex

Proposed Exhibit no.	Party proposing the admission of evidence	Admitted/Not admitted/Marked for identification (MFI)
1D 00814	Prlić Defence	Admitted
1D 00815	Prlić Defence	Admitted
1D 00817	Prlić Defence	Admitted
1D 00818	Prlić Defence	Admitted
1D 00819	Prlić Defence	Admitted
1D 00820	Prlić Defence	Admitted
1D 00821	Prlić Defence	Admitted
2D 00048	Stojić Defence	Admitted
2D 00090	Stojić Defence	Not admitted (reason: witness unable to clarify to the Chamber its authenticity, relevance or probative value in court)
2D 00093	Stojić Defence	Admitted
2D 00095	Stojić Defence	Not admitted (reason: witness unable to clarify to the Chamber its authenticity, relevance or probative value in court)
P 03031 (under seal)	Stojić Defence	Admitted as P 03031 (under seal)
P 03025	Stojić Defence	Admitted as P 03025
2D 00019	Stojić Defence	Admitted
3D 00321 (3 pages: p. 0030, p. 0031, p. 0053 ⁹)	Praljak Defence	Not admitted (reason: no relevance for the present case)
3D 00322 (8 pages: p. 0164, p. 0180, p. 0181, p. 0182, p. 0183, p. 0184, p. 0242, p. 0243 ¹⁰)	Praljak Defence	Not admitted (reason: no relevance for the present case)
3D 00332	Praljak Defence	Not admitted (reason: no relevance for the present case)
3D 00333	Praljak Defence	Not admitted (reason: no relevance for

⁹ 3D13. The page numbers quoted in the Annex correspond to the page numbers of the English version of the relevant document in the E-court system.

¹⁰ 3D13.



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		the present case)
3D 00334	Praljak Defence	Not admitted (reason: no relevance for the present case)
P 3827	Praljak Defence (3D 00335)	P 3827 already admitted on 15 June 2006
P 2692	Praljak Defence (3D 00336)	P 3827 already admitted on 15 June 2006
3D 00337	Praljak Defence	Not admitted (reason: no relevance for the present case)
5D 00523	Čorić Defence	Not admitted (reason: witness unable to clarify to the Chamber its authenticity, relevance or probative value in court)
5D 00524	Čorić Defence	Admitted
5D 00525	Čorić Defence	Admitted
5D 00526	Čorić Defence	Admitted
5D 00527	Čorić Defence	Admitted
5D 00528	Čorić Defence	Admitted
5D 00529	Čorić Defence	Admitted
5D 00534	Čorić Defence	Admitted