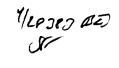
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# UNITED NATIONS

since 1991



International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Case No.:

IT-04-74-T

Date:

11 January 2007

**ENGLISH** 

Original:

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

Order of:

11 January 2007

THE PROSECUTOR

v.

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

## ORDER TO ADMIT EVIDENCE RELATIVE TO WITNESS ISMET POLJAREVIĆ

#### 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 Murphy 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"),

**CONSIDERING** that at the hearings held on 12 and 13 December 2006, the Office of the Prosecutor ("Prosecution") moved for the admission of 10 documents<sup>1</sup> and that the counsels for the Accused Stojić ("Stojić Defence"), the counsels for the Accused Petković ("Petković Defence") and the counsels for the Accused Pušić ("Pušić Defence") moved for the admission of, respectively, 2, 2 and 2 documents relating to the testimony of Witness Ismet Poljarević ("Proposed Exhibits"),

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

**CONSIDERING** that the Chamber hereby decides to admit into evidence the documents labelled "admitted" in the Annex attached to this decision because they were submitted to Witness Ismet Poljarević and have satisfactory indicia of relevance, probative value and reliability,

**CONSIDERING** that with regard to document P 01958, the Chamber decides to mark it for identification, finding that if it were established that the statements contained in it had been obtained through torture<sup>5</sup> or uill-treatment<sup>6</sup>, the document could not be admitted,<sup>7</sup>

#### FOR THE FOREGOING REASONS,

**PURSUANT TO** Rule 89 of the Rules of Procedure and Evidence.

GRANTS the motion of the Pušić Defence.

**PARTIALLY GRANTS** the motions of the Prosecution, the Stojić Defence and the Petković Defence,

<sup>&</sup>lt;sup>1</sup> IC 00179.

<sup>&</sup>lt;sup>2</sup> IC 00180.

<sup>&</sup>lt;sup>3</sup> IC 00181.

<sup>&</sup>lt;sup>4</sup> IC 00182.

Article 15 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984, stipulates that: "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

<sup>&</sup>lt;sup>6</sup> Article 21 paragraph 3(g) of the Statute of the International Criminal Tribunal for the Former Yugoslavia stipulates that: "In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality: /.../ not to be compelled to testify against himself or to confess guilt."

<sup>&</sup>lt;sup>7</sup> Given the right of the Accused to be presumed innocent pursuant to Article 21 paragraph 3 of the Statute, at the present stage of the trial, the Chamber does not wish to admit that Ismet Poljarević was indeed tortured,

**DECIDES** that there are grounds to admit into evidence the documents labelled "admitted" in the Annex attached to this decision,

**DECIDES** that there are grounds to mark for identification the documents labelled "MFI" in the Annex attached to this decision, **AND** 

**DISMISSES** the motion of the Petković Defence in all other respects for the reasons given in the Annex attached to this decision.

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

/signed/

Judge Jean-Claude Antonetti Presiding Judge

Done this eleventh day of January 2007 At The Hague The Netherlands

[Seal of the Tribunal]

### **Annex**

Proposed exhibit	Party proposing the	Admitted/Not admitted/Marked for
no.	admission of evidence	identification (MFI)
P 02131	Prosecution	Admitted
P 02177	Prosecution	Admitted
P 02455	Prosecution	Admitted
P 07158	Prosecution	Admitted
P 07183	Prosecution	MFI (awaiting a new translation)
P 07498	Prosecution	Admitted
P 08820	Prosecution	Admitted
P 09726	Prosecution	Admitted
P 09791	Prosecution	Admitted
IC 00170	Prosecution	Admitted
P 01958	Stojić Defence	MFI (until deliberation of the judgement)
2D 00285	Stojić Defence	Admitted
P 03582	Petković Defence	Not admitted (reason: the document was
		not presented to the witness)
4D 00472	Petković Defence	Admitted
P 07131	Pušić Defence	Admitted
6D 00216	Pušić Defence	Admitted