

IT-04-74-T
04-1/28782
16 January 2007

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**UNITED
NATIONS**



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: 11 January 2007
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
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 documents¹ and that the counsels for the Accused Stojić (“Stojić Defence”),² the counsels for the Accused Petković (“Petković Defence”)³ and the counsels for the Accused Pušić (“Pušić Defence”)⁴ 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 torture⁵ or uill-treatment⁶, the document could not be admitted,⁷

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,

¹ IC 00179.

² IC 00180.

³ IC 00181.

⁴ IC 00182.

⁵ 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.”

⁶ 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.”

⁷ 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 no.	Party proposing the admission of evidence	Admitted/Not admitted/Marked for 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