



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: 1 June 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

Decision of: 1 June 2007

THE PROSECUTOR

v.

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

PUBLIC

DECISION ON LIST OF EXHIBITS

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”);

SEIZED of the “Motion to Add Four Exhibits in Relation to the Evidence of Witness Bo Pellnas”, filed by the Office of the Prosecutor (“Prosecution”) on 18 May 2007 (“Motion”), whereby the Prosecution requests the leave of the Chamber to add to its list of exhibits four exhibits related to the testimony of Witness Bo Pellnas, whose appearance before the Chamber is scheduled for 5 to 7 June 2007 (“Proposed Exhibits”),

NOTING “Praljak’s Response to Prosecution’s Motion to Add Four Exhibits in Relation to the Evidence of Witness Bo Pellnas”, filed by Counsel for the Accused Praljak (“Praljak Defence”) on 31 May 2007 (“Praljak Response”) whereby the Praljak Defence opposes the Motion,

NOTING the “Joinder of the Accused Ćorić in Praljak’s Response to Prosecution’s Motion to Add Four Exhibits in Relation to the Evidence of Witness Bo Pellnas”, filed by Counsel for the Accused Ćorić (“Ćorić Defence”) on 31 May 2007, whereby the Ćorić Defence joins the Praljak Response,

CONSIDERING that the Prosecution argues that the Proposed Exhibits directly relate to exhibits already on the list of exhibits established pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“65 *ter* List”) and relate to the testimony of Bo Pellnas,

CONSIDERING that the Prosecution acknowledges that it inadvertently failed to include the Proposed Exhibits in the 65 *ter* List,

CONSIDERING that the Prosecution argues that the Defence will not suffer any prejudice due to the addition of the Proposed Exhibits since it disclosed them sufficiently in advance,

CONSIDERING that the Praljak Defence submits in particular that the Tribunal Statute affords the Accused the right to have sufficient time to prepare his defence and that the addition of Proposed Exhibits to the 65 *ter* List, just before the appearance of the witness the Prosecution intends to introduce them through, causes unacceptable prejudice to the Defence,

CONSIDERING that the Praljak Defence submits that the Prosecution has failed to justify the tardy addition of the Proposed Exhibits,

CONSIDERING that in order to grant a request to add exhibits to the 65 *ter* List, the Chamber must ensure that the rights of the Defence are respected by making sure that any additional exhibits are disclosed sufficiently in advance and will not infringe upon the right of the Defence to have adequate time to prepare its case,¹

CONSIDERING, furthermore, that pursuant to Rule 89(C) of the Rules, the Chamber may admit any relevant evidence which it deems to have probative value,

CONSIDERING that the Chamber notes that the Proposed Exhibits were disclosed to the Defence on 18 May 2007,

CONSIDERING that the Chamber believes that the tardy addition of Proposed Exhibits to the 65 *ter* List does not infringe upon the rights of the Accused to prepare their defence, to the extent that these documents are consistent with the allegations set forth by the Prosecution with the documents already contained in its 65 *ter* List,

CONSIDERING, furthermore, that the Chamber finds that the Proposed Exhibits are relevant and have some probative value, and considers that it is in the interests of justice to add them to the 65 *ter* List,

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 89(C) of the Rules,

GRANTS the Motion.

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

/signed/

Judge Jean-Claude Antonetti
Presiding Judge

¹ See for example, *The Prosecutor v. Martić*, Case No. IT-95-11-PT, “Decision on Prosecution’s Motion to Amend Its Rule 65 *ter* Exhibit List”, 15 December 2005, p. 3; *The Prosecutor v. Popović et al.*, Case No. IT-05-88-T, “Decision on Prosecution’s Motion for Leave to Amend the Rule 65 *ter* Exhibit List”, 6 December 2006, p. 7; *The Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1, Decision on the Prosecution Motion to Amend Its Rule 65 *ter* Exhibit List, 21 December 2006, p. 2.

Done this first day of June 2007

At The Hague

The Netherlands

[Seal of the Tribunal]