



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: 14 June 2007  
Original: ENGLISH  
French

**IN TRIAL CHAMBER III**

**Before:** Judge Jean-Claude Antonetti  
Judge Árpád Prandler  
Judge Stefan Trechsel  
Reserve Judge Antoine Kesia-Mbe Mindua

**Registrar:** Mr Hans Holthuis

**Order of:** 14 June 2007

**THE PROSECUTOR**

v.

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

**DISSENTING OPINION OF JUDGE JEAN-CLAUDE ANTONETTI REGARDING  
THE REFUSAL TO ADMIT EVIDENCE PRESENTED DURING THE TESTIMONY  
OF WITNESS BC**

**The Office of the Prosecutor:**

Mr Kenneth Scott

**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

On 14 June 2007, the Trial Chamber rendered a decision to admit evidence regarding Witness BC, whereby the majority refused to admit evidence presented by several Defence teams.

I consider, however, that some documents should have been admitted even though Witness BC was not able to inform the Chamber about their content. Indeed, in accordance with the guidelines set out by the *Prlić* Chamber, in order to be admitted a document must be put to a witness in court so that the witness can testify about its content. Nevertheless, it would be incorrect to consider that a document which satisfies the admissibility criteria of Rule 89 (C) of the Rules of Procedure and Evidence cannot be admitted because a witness is unable to comment on the said document.

At this stage, the refusal to admit proposed exhibits will lead to the exhibits being presented anew by the Prosecution or the Defence. In any case, energy would be wasted and excessive trial time would be spent on these documents, which would impact the expeditiousness of the trial.

Moreover, it should be noted that some of the refused documents come from Prosecution exhibits. Accordingly, I consider that these exhibits, which were used to substantiate the Indictment and which are supposed to meet the admissibility criteria of Rule 89 (C) of the Rules, should be admitted automatically upon a request from the Defence notwithstanding the fact that the Prosecution did not introduce them during the trial, provided that these documents were mentioned at some stage during the proceedings.

Consequently, I consider that the Chamber ought to have admitted Exhibits P 03005, P 03900, P 06855, P 02258, P 05003, P 06367, P 06764, 1D 01329, 1D 01332, 1D 01526, 3D 00920, 3D 00879, 3D, 00880, 5D 02027, 5D 02407.

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

*/signed/*

---

Jean-Claude Antonetti

Presiding Judge

Done this fourteenth day of June 2007

At The Hague

The Netherlands

**[Seal of the Tribunal]**