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: 5 September 2007

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TRIAL CHAMBER III

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

Registrar: **Mr Hans Holthuis**

Decision: **5 September 2007**

THE PROSECUTOR
vs.
Jadranko PRLIĆ
Bruno STOJIĆ
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ĆORIĆ
Berislav PUŠIĆ

PUBLIC

DECISION ON THE ADMISSION INTO EVIDENCE OF SLOBODAN PRALJAK'S EVIDENCE IN THE CASE OF NALETELIĆ AND MARTINOVIĆ

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Douglas Stringer

Defence Counsel:

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

I. INTRODUCTION

1. TRIAL Chamber III ("Chamber") of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Criminal Law Committed in the Territory of the former Yugoslavia since 1991 ("Tribunal") is seized of the *Prosecution motion for the admission into evidence of the transcript of Slobodan Praljak's evidence in the case of the Prosecutor vs. Naletelić and Martinović* filed by the Office of the Prosecutor ("Prosecution") on 9 May 2007 ("Motion"), attached to which is a confidential annex in which the Prosecution requests the admission, pursuant to Rule 89(C) of the Rules of Procedure and Evidence ("Rules"), of the transcript of the evidence given from 2 to 8 April 2002 by the Accused Praljak in case number IT-98-34-T, *The Prosecutor vs. "Naletelić and Martinović* ("Naletelić and Martinović case") ("Praljak evidence") for use during the presentation of its case and the testimony of witnesses.

II. PROCEDURAL BACKGROUND

2. On 23 May 2007, counsel for the Accused Praljak ("Praljak Defence") filed *Praljak's response to the Prosecution motion for the admission into evidence of the transcript of Slobodan Praljak's evidence in the case of the Prosecutor vs. Naletelić and Martinović* ("Praljak Response") in which they object to the admission of the Praljak evidence.

3. Also on 23 May 2007, counsel for the Accused Prlić, Stojić, Petković, Jorić and Pušić ("Defence") filed the *Response of the Accused Prlić, Stojić, Petković, Jorić and Pušić* to the *Prosecution motion for admission into evidence of Slobodan Praljak's evidence in the case of the Prosecutor vs. Naletelić and Martinović* ("Joint Response") in which they first object to the admission of the Praljak evidence and, in the alternative, object to the admission of the Praljak evidence against his co-accused.

4. On 30 May 2007, the Prosecution filed the *Prosecution request to reply to the Defence responses to the Prosecution's motion for admission into evidence of the transcript of Slobodan Praljak's evidence in the case of the Prosecutor vs. Naletelić and Martinović* ("Reply") in which it requests leave to file a reply to the Praljak Response and the Joint Response and also submits fresh arguments for the admission of the Praljak evidence.

III. ARGUMENTS OF THE PARTIES

5. In support of the Motion, the Prosecution submits that the admission of the Praljak evidence is governed by Rule 89(C) of the Rules[1] and that the evidence is relevant and has probative value.[2] It further submits that it was given voluntarily and without compulsion before the Trial Chamber in the Naletelić and Martinović case ("*Naletelić and Martinović* Chamber") and that it contains many assertions identical or similar to those which the Accused Praljak made before the Chamber not only in his opening statement but also in his interventions in the proceedings since the start of the trial in this case.[3]

6. In the Praljak Response, the Praljak Defence submits first that the admission of the Praljak evidence would violate the Accused Praljak's right to remain silent pursuant to Article 21(4)(g) of the Statute of the Tribunal ("Statute").[4] It further submits that the Praljak evidence was not heard under the conditions set in Articles 18(3) and 21 of the Statute and Rules 42, 43, 89 and 95 of the Rules.[5] Accordingly, it notes that in accordance with the Trial Chamber's decision in the *Halilović* case, regardless of his status as a suspect or not, when his evidence was given, the guarantees set out in Rules 42 and 43 of the Rules had to be respected but were not in this case.[6] It adds, in the alternative, that the Accused Praljak had the status of suspect when the disputed evidence was given[7] and that his rights as a suspect, as set out in Rules 42(A), 42(B) and 43 of the Rules were violated.[8]

7. In support of the Joint Response, the Defence first argues that the Praljak evidence should not be admitted because the Accused Praljak's words must be evaluated in the same way as confessions and that the admission of such confessions would be antithetical to the provisions of Rule 42 of the Rules.[9] In the alternative, the Defence submits that the Praljak evidence should be admitted only against the Accused Praljak and not the other Accused, first on the ground that the disputed evidence would turn the Accused Praljak into a Prosecution witness and run counter to the general principle of law which does not allow an accused to testify in an ongoing trial against

[1] Motion, para. 2.
[2] Motion, para. 4.
[3] Motion, para. 3.
[4] Praljak Response, paras. 4 and 5.
[5] Praljak Response, para. 6.
[6] Praljak Response, paras. 9-11.
[7] Praljak Response, paras. 12-18.
[8] Praljak Response paras. 25-28.
[9] Joint Response paras. 2 and 6.

his co-accused.[10] Second, it argues that such an admission would violate the right of the Accused provided for in Article 21(4)(e) of the Statute to examine or to have examined witnesses against him.[11] It adds that by requesting admission under Rule 89(C) of the Rules, the Prosecution is seeking to avoid the procedure set out in Rule 92 *bis* of the Rules. In the view of the Defence, this would make the Praljak evidence inadmissible insofar as the assertions of the Accused relate to the acts and conduct of the other Accused and also insofar as the Accused Praljak cannot be cross-examined.[12] Lastly, it submits that since the other Accused were not present when the said evidence was given and did not have the opportunity to refute it, its admission would violate the requirements of a fair trial.[13]

8. In its Reply, the Prosecution first requests leave to file a reply to the Praljak Response and the Joint Response on the ground that it considers it necessary to refute the arguments set out there by presenting new arguments.[14] It therefore argues that Rule 90(E) of the Rules is the only provision of the Rules which deals expressly with the evidence given in a case before the Tribunal by a person subsequently accused.[15] It adds however that Rule 90 does not settle the question of using evidence freely given by a witness in previous proceedings whereas in the case here, the Accused Praljak freely made statements not under duress before the Naletelić and Martinović Chamber.[16] It then rejects the characterisation of the Praljak evidence as "a suspect interview" on the ground that the said evidence was given freely, in open court, before professional judges and that, under such circumstances, there is no reason to fear any type of compulsion whatsoever in respect of Slobodan Praljak.[17] Furthermore, it considers that even it were not necessary to caution Slobodan Praljak against any possible self-incrimination, such caution was already given.[18] Finally, it disputes the allegation that the Praljak evidence should be likened to a confession insofar as what was said there does not differ from the statements and interventions of the Accused Praljak in this case.[19]

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[10] Joint Response, paras. 2 and 8-10.
[11] Joint Response, paras. 2 and 11-17.
[12] Joint Response, paras. 2 and 21.
[13] Joint Response, paras. 2 and 22-23.
[14] Reply paras. 1 and 2.
[15] Reply, paras. 4 and 5.
[16] Reply, para. 6.
[17] Reply, para. 7.
[18] Reply, paras. 8 and 9.
[19] Reply, para. 10.

IV. DISCUSSION

9. The Chamber would first recall that in its Decision of 28 April 2006, it gave the Parties the possibility to file replies subject to the circumstances so requiring this, stated that the party wishing to present a reply would *first* have to request leave of the Chamber to do so and that, last, the requesting party would have to make clear why the circumstances are sufficiently compelling for the Chamber to grant its request.[20] In the case at hand, the Prosecution did not first seek leave of the Chamber to file a reply or at least did not wait for the Chamber's decision on the request. However, in view of the innovative nature of the issue in dispute and the fresh arguments set out in the Response and the Joint Response which the Prosecution did not address in the Motion, the Chamber, on an exceptional basis, decides to grant leave to file the Reply.

10. The Chamber is seized of the question of knowing to what extent and under what conditions the transcript of the Accused Praljak who testified previously as a witness in the Naletelić and Martinović case[21] is admissible in this case.

11. The Chamber would first observe that the relevant rules of the Rules in this respect, namely Rules 89 to 98, do not address this specific point. The Chamber agrees with the Prosecution that the second part of Rule 90(E)[22] envisages only the specific case of the use of evidence in subsequent proceedings where a witness is compelled by the Chamber to answer a question which might incriminate him, but does not contain any provision as to the use, in subsequent proceedings, of evidence freely given by a witness without the intervention of the Chamber. Accordingly, as provided for in Rule 89(B) of the Rules, a Trial Chamber must apply the rules for the administration of evidence which, in the spirit of the Statute and the general principles of law, will make it possible to reach a fair settlement of the case.

12. The case law of the Tribunal states that "a pre-requisite for admission of evidence must be compliance by the moving party with any relevant safeguards and procedural protections and that it

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[20] Revised Version of the Decision Adopting Guidelines on Conduct of Trial Proceedings. 28 April 2006 ("Decision of 28 April 2006").

[21] In that case, the Accused Praljak appeared as a Defence witness for Mladen Naletilić

[22] Rule 90(E) of the Rules provides that "A witness may object to making any statement which might tend to incriminate the witness. The Chamber may, however, compel the witness to answer the question. Testimony compelled in this way shall not be used as evidence in a subsequent prosecution of the witness for any offence other than false testimony".

must be shown that the relevant evidence is reliable".[23] This guiding principle is echoed in Rule 89(C)[24] and Rules 89(D)[25] and 95,[26] the latter providing for the exclusion of evidence if the need for a fair trial outweighs the admission into the record of that evidence.[27] Accordingly, in the light of this case law, the Chamber must determine whether the Praljak evidence offers sufficient indicia of reliability, probative value and relevance and whether all the appropriate procedural guarantees and protections were respected at the time the evidence was given. Once these conditions have been satisfied, the Chamber will exercise its discretionary power to admit or not admit that evidence.

13. The Chamber notes moreover that no Chamber at the Tribunal has directly addressed the issue of which it is now seized, that is, the subsequent use of the testimony of an Accused before another Chamber when that Accused, at the time he testified, had not been indicted[28] and when it does not seen that, at that moment, he had already been examined by the Office of the Prosecutor. The case law of the Tribunal in fact offers many cases in which the issue of the admission of a prior statement of an accused given as a witness, suspect or accused before the Office of the Prosecutor or the national authorities was raised.[29] However, in those Decisions, the principles identified first reflected a concern for protecting the Accused against any possible abusive influence by authorities not subject to the direct control of a judge. Similarly, the case law of the Tribunal and that of the International Criminal Tribunal for Rwanda offer examples in which the admission of prior testimony of an accused before another Chamber of the Tribunal when that person had already been

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[23] *The Prosecutor vs. Zejnil Delalić et al,* Case no: IT-96-21-A, Judgement, 20 February 2001 ("Čelebići Judgment"), para. 533, cited in *The Prosecutor vs. Miroslav Kvočka et al,* Case no: IT-98-30/1-A, Judgement, 28 February 2005, para. 128.

[24] Rule 89(C) of the Rules states: "A Chamber may admit any relevant evidence which it deems to have probative value".

[25] Rule 89(D) states: "A Chamber may exclude evidence if its probative value is substantially outweighed by the need to ensure a fair trial."

[26] Rule 95 states: "No evidence shall be admissible if obtained by methods which cast substantial doubt on its reliability or if its admission is antithetical to, and would seriously damage, the integrity of the proceedings."

[27] See Čelebići Judgement, para. 555.

[28] The Praljak evidence in the Naletilić and Martinović was given from 2 to 8 April 2002. The initial indictment in this case is dated 4 March 2004 and was made public on 2 April 2004.

[29] See in particular *Decision on request for admission of the statement of Slobodan Praljak* [sic], 22 August 2007; *The Prosecutor vs. Milutinović et al,* Case no: IT-05-87-T, *Decision of Prosecution Motion to Admit Documentary Evidence,* p. 14; *The Prosecutor vs. Halilović,* Case no: IT-01-48-T, *Decision on Motion for Exclusion of Statement of Accused,* 8 July 2005; *The Prosecutor vs. Halilović,* Case no: IT-01-48-AR73.2, *Decision on interlocutory appeal concerning admission of record of the interviews of the accused from the Bar Table,* 19 August 2005; *The Prosecutor vs. Simić et al,* Case no: IT-95-9-T, *Reasons for Decision on Prosecution's Motion to Use Telephone Interviews,* 11 March 2003; *The Prosecutor vs. Zenjil Delalić et al,* Case no: IT-96-21-T, *Decision on Zdravko Mucić for the exclusion of evidence,* 2 September 1997.

indicted at the time he testified, was discussed or is under discussion.[30] However, the nature of the status and the rights of the accused in question in the latter case does not allow for a comparison with the facts of which the Chamber is seized.

14. In the case at hand, the essential question which arises is that of determining whether the rights of the Accused Praljak were sufficiently safeguarded at the time he testified in the Naletilić and Martinović case, so that the admission of his testimony into his own trial does not prejudice his right to a fair trial as guaranteed by Articles 20 and 21 of the Statute.

15. The Statute and the Rules provide specific guarantees for suspects and accused persons which do not apply to witnesses. Accordingly, Rule 42 of the Rules, based on Article 18(3) of the Statute, governs the suspect's rights during the investigation. It provides that the suspect has the right to assistance of a counsel and an interpreter, the right to remain silent and to be cautioned that any of his statements may be used in evidence.[31] Rule 63 of the Rules deals with the questioning of an accused by the Office of the Prosecutor and must be read in the light of Article 21 of the Statute which sets out the fundamental rights of the accused.

16. Rule 90 of the Rules, "Testimony of Witnesses", clearly shows, for reasons, which are evident moreover, that a witness does not enjoy the same rights as an accused person and a suspect. The Chamber notes that the only relevant guarantee provided by the Rules which a witness appearing before a Chamber enjoys is to be found in the first part of Rule 90(E). As indicated above, this Rule provides that a witness may refuse to make any statement which might incriminate him. The Chamber can however compel the witness to answer a question which might incriminate him. In that case, Rule 90(E) specifies that the testimony cannot be used subsequently as evidence against him, except for false testimony.[32]

17. This provision makes clear that a witness' right to remain silent should there be a risk of self-incrimination is not absolute insofar as a Chamber may compel him to answer a question which might incriminate him. This latter limit notwithstanding however, there is no doubt that a witness who makes statements without a Chamber's specific intervention, as provided for in Rule 90(E),

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[30] See *The Prosecutor vs. Karemera et al,* Case no: ICTR-98-44-T, *Decision of Prosecutor's motion to admit prior sworn trial testimony of the accused persons, Rule 89 of the Rules of Procedure and Evidence, 6 December 2006.* The Chamber notes that this question is currently pending in the case *The Prosecutor vs. Šešelj:* see *Prosecution Motion to Admit in Evidence Transcripts of Evidence of Accused in the Milošević Case,* 12 September 2006.

[31] The Chamber notes that Rule 43 of the Rules governs the recording of suspects' statements.

[32] This rule, inspired by the 5th Amendment to the Constitution of the United States of America, itself demonstrates the fundamental difference between an accused and a witness insofar as an accused person enjoys a *fundamental* right, enshrined in Article 21(4)(g) of the Statute, "not to be compelled to testify against himself or to confess guilt.

has the right not to testify against himself. In addition to its being enshrined in Rule 90(E) of the Rules, a witness' right to remain silent when there is a risk of self-incrimination is protected not only by Article 14(3)(g) of the International Covenant on Civil and Political Rights but also by the European Convention on Human Rights and Fundamental Freedoms ("European Convention on Human Rights").[33]

18. The Chamber has analysed the issue of whether a Trial Chamber is obliged to inform a witness of his right to remain silent. In the Reply, the Prosecution seems to rely on the lack of such an obligation in order to demonstrate that there was no violation of the Accused Praljak's right to remain silent.[34] In the case at hand, the Chamber observes that neither the Statute nor the Rules impose the obligation on a Trial Chamber to inform a witness of and caution him as to the existence of his right to remain silent should there be a risk of self-incrimination.[35] Nonetheless, a Trial Chamber may consider it desirable to inform a witness of his right to refuse to make any statement which might incriminate him, in particular, when it deems that a witness may appear as a potential suspect. However, in order to counter the above-indicated concerns, such information might be provided at the start of the witness' testimony.[36] This having been said, although a Trial Chamber is not under a strict obligation to inform a witness of his right to remain silent because this point is not specifically addressed in the Rules, the fact of not having so informed him still has an impact in this case, as the following demonstrates.

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[33] It should be noted that the European Convention on Human Rights does not formally consider the right not to assist in incriminating oneself but that this right was affirmed by the European Court of Human Rights as "generally recognised international standards which lie at the heart of the notion of a fair procedure": See European Court of Human Rights ("ECHR"), Saunders vs. United Kingdom, 17 December 1996, Collection 1996-VI, paras. 68-69; ECHR, John Murray vs. United Kingdom, 8 February 1996, Collection of Judgments and Decisions 1996-1, para. 45; ECHR, Judgment Funke vs. France, 25 February 1993, Series A no: 256-A, para. 44. Regarding a witness' right to remain silent should there be a risk of self-incrimination, see ECHR, Judgment K. vs. Austria, 2 June 1993, Series A no. 256-A, para. 15 and the Report of the European Commission of Human Rights, K., vs. Austria, 13 October 1992, paras. 49 and 54.

[34] Reply, paras. 8-9.

[35] See *The Prosecutor vs. Simić et al*, Case no: IT-95-9-T, transcript of the hearing of 27 March 2003, pp. 17522-17523.

[36] Several Trial Chambers have adopted such a practice and have informed the witness appearing before them of his right under Rule 90(E): see *The Prosecutor vs. Bagosora et al*, Case no: ICTR-98-41 (*Bagosora* case), transcript of the hearings of 5 July 2005, p. 49 of the English version (for Ngirumptatse), 16 March 2006, p. 60 of the English version (for Nzirorera) and 16 June 2006, p. 2 of the English version (for Karemera). (In that case, the three Accused, Ngirumptatse, Nzirorera and Karemera, themselves indicted in the case *The Prosecutor vs. Karemera et al*, testified in the *Bagosora* case. At the start of their testimony, the Presiding Judge of the Chamber reminded the three accused that they could refuse to make any statement which might incriminate them. In the event, the accused did in fact rely on that rule in order to refuse to answer certain questions and the Chamber did not compel them to answer questions which might incriminate them. The respective counsel for the Accused were also present during their testimony).; *The Prosecutor vs. Prlić et al*, Case no: IT-04-74-T, French transcript pp. 14631-14632; *The Prosecutor vs. Slobodan Milošević*, Case no: IT-02-54-T, French transcript, p. 42896.

19. As we have already seen, the right to remain silent if something he says could be incriminating is to be interpreted as a minimum guarantee which a witness called to testify before a Chamber enjoys. In addition, however, for this right to be not merely theoretical but truly effective, the witness much know not only that, should this be necessary, he may refuse to answer the questions if his answers might incriminate but also that, if despite everything, he chooses to answer such questions voluntarily, his statements might, depending on the case, be used against him. Only in this last scenario, that is, when a witness is aware of the existence of this right and the consequences deriving from a possible waiver of this right, can the waiver be valid.

20. Contrary to what the Prosecution alleges, the Chamber considers that the circumstance after which Slobodan Praljak testified voluntarily, without duress, before the Naletilić and Martinović Chamber is not sufficient to allow the admission of the Praljak evidence insofar as this circumstance does not make it possible to conclude that Slobodan Praljak expressly waived his right to remain silent. In fact, as mentioned above, in order to waive that right he would have to know of its existence and the consequences deriving from waiving it. The Chamber considers that the only way it can be certain that the witness expressly waived his right to remain silent is to have a guarantee that he was duly informed of and cautioned about that right at the time of his testimony.

21. In the case at hand, the Chamber notes that the Accused Praljak was not informed of his right not to make any statement which might incriminate him and, for that reason, to remain silent when he testified in the Naletilić and Martinović case. Contrary to the Prosecution's allegation, this is clear from the Praljak evidence. The Chamber observes in fact that although the possibility of informing Slobodan Praljak of his right to remain silent was mentioned on one occasion by Mr Krsnik, counsel for Mladen Naletilić, it must be noted that Slobodan Praljak was never cautioned as to his right not to make statements about the facts which would expose him to possible prosecution and the consequences deriving from a possible waiver of his right to remain silent.[37]

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[37] The Chamber notes that on pages 9584-9585 of the French transcript of the Naletilić and Martinović case, after the representative of the Office of the Prosecutor, Mr Kenneth Scott, as part of his cross-examination put several questions to Slobodan Praljak relating to the chain of command going up to him and about his responsibility in respect of the ATG Mrmak units, Mr Krsnik asked the Naletilić and Martinović Chamber to inform Slobodan Praljak of his right not to answer the questions put to him by the Office of the Prosecutor. However, the transcript shows that the Chamber did not grant the request and that Slobodan Praljak continued his testimony without having been formally informed of his right to remain silent. The relevant passages are:

> Mr Krsnik [translation of French interpretation into English]: Really, I am trying to abstain from objections. I believe that the witness has come here in fact to tell the truth, to explain everything. But I have one running objection, that is, the Tribunal should caution the witness about the way, the way the Prosecutor is asking questions. The witness is not obliged to answer that type of question, and

22. Consequently, insofar as Slobodan Praljak was not duly cautioned about the possibility of not making any statements which might incriminate himself and, thus, to the possibility of his remaining silent, and insofar as the Chamber cannot assume that Slobodan Praljak was aware of this right,[38] the Chamber considers that it does not have the guarantee that the Accused Praljak had waived his right to remain silent at the time he testified. As a result, the Chamber considers that his minimum rights as an Accused now were not sufficiently protected at the time he testified in the Naletilić and Martinović case in order to allow the Praljak evidence to be admitted in the present case. Given these circumstances, the Chamber considers that the admission of the Praljak evidence would seriously infringe the Accused Praljak's right to a fair trial.

23. In view of the observation in the previous paragraph, the Chamber considers that it need not rule on the question of whether the fact of informing an accused of his right to remain silent within the meaning of Rule 90(E) before his statement would be sufficient to permit subsequent incorporation of that statement into his own trial. Nor does it consider that it need rule on the question of whether evidence given in the circumstance of the case, that is before a Trial Chamber, must also be considered as providing guarantees equivalent to those provided for by Rules 42 and 43 of the Rules. For the same reason, the Chamber does not consider it appropriate to examine whether the Praljak evidence meets the other conditions for admission as required by Rule 89(C) of the Rules.[39] This holds also for the question of its use in the trial in respect of his co-accused.

> perhaps the Judges might caution the witness as to that. Because, possibly, really possibly, he might incriminate himself and he is not bound to do so. I believe that this is not the appropriate way to cross-examine. But I believe that the Judges might perhaps caution the witness as to that possibility.
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> Presiding Judge: [translation of French interpretation into English): Mr Krsnik, we believe that before the witness arrived here it was up to you to alert him to the danger of incriminating himself.

[38] The Chamber recalls that when Slobodan Praljak testified, he had not yet been indicted and it does not appear that he had already been questioned by the Office of the Prosecutor.

[39] The Chamber nevertheless wishes to make clear in respect of the argument put forward by the Prosecution in support of its motion for the admission of the Praljak evidence, according to which it contains many statements identical or similar to those which the Accused Praljak made before the Chamber as part of his interventions since the start of the trial in this case (see Motion, para. 3), that the interventions of the Accused Praljak to date as part of the cross-examination of the Prosecution witnesses do not have the value of evidence. This means that even if one were to assume that the Chamber, as part of this decision, had decided to examine the other conditions for admissibility of the Praljak evidence, *quod non*, the Accused Praljak's interventions would not be part of the elements considered by the Chamber in order to render its decision here.

FOR THE THESE REASONS,

PURSUANT TO RULES 89(C), 89(D) and 95 of the Rules, the Chamber

REJECTS the Motion.

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

Jean-Claude Antonetti

Presiding Judge Trial Chamber III

Done this fifth day of September 2007

At The Hague

The Netherlands

[Seal of the Tribunal]