



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: 8 January 2008
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

Decision of: 8 January 2008

THE PROSECUTOR

v.

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

PUBLIC

DECISION ON THE REQUEST TO ADMIT EXHIBITS P 09769 AND P 02280

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Douglas Stringer

Counsel for the Accused:

Mr Michael Karnavas and Ms Suzana Tomanović for Jadranko Prlić
Ms Senka Nožica and Mr Karim A. A. Khan 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 Čorić
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 “Prosecution Motion for Admission of Exhibit P 09769”, filed by the Office of the Prosecutor (“Prosecution”) on 23 November 2007 (“Motion”) in which the Prosecution requests the admission of Exhibit P 09769 into evidence,

NOTING the “Joint Response to Prosecution Motion for Admission of Exhibit P 09769”, filed jointly by Counsel for the six Accused (“Defence”) on 7 December 2007 (“Joint Response”), in which the Defence objects to the admission of Exhibit P 09769,

NOTING the “Prosecution Motion for Admission of Documentary Evidence”, filed by the Prosecution on 28 June 2007 requesting *inter alia* the admission of Exhibit P 02280,

NOTING the “Prosecution Reply to Joint Defence Response to Prosecution Motion for Admission of Documentary Evidence”, filed by the Prosecution on 22 October 2007, whereby it submits that Exhibit P 09769, which would be requested for admission through a subsequent motion, supports the authenticity of Exhibit P 02280,

NOTING the “Decision on Prosecution Motion for Admission of Documentary Evidence (Two Motions: HVO and Herceg-Bosna)”, dated 11 December 2007 (“Decision of 11 December 2007”), in which the Chamber found that in itself, P 02280 does not contain any element allowing a *prima facie* evaluation of its authenticity and, as a result, deferred to rule on its admission, deciding to rule on this matter subsequently in its decision relating to the request for admission of Exhibit P 09769,¹

CONSIDERING consequently that in the present decision, the Chamber is called upon to rule on the admission of the two exhibits,

¹ Decision of 11 December 2007, p. 14.

CONSIDERING that in support of the Motion, the Prosecution argues that Exhibit P 09769 supports the authenticity of Exhibit P 02280,²

CONSIDERING that in the Joint Response, the Defence argues in particular that Exhibit P 09769 is not on the list of exhibits submitted by the Prosecution pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“Rules”) on 19 January 2006 (“65 *ter* List”) and that the Prosecution did not provide any justification for this absence in its Motion,³

CONSIDERING that the Defence submits that the Prosecution did not ask for leave to add Exhibit P 09769 to its 65 *ter* List,⁴

CONSIDERING that the Chamber notes indeed that Exhibit P 09769 is not on the 65 *ter* List, that the Prosecution has not asked for leave to add it and has not justified the absence of this exhibit on the 65 *ter* List,

CONSIDERING that, consequently, the Chamber cannot grant the request to admit Exhibit P 09769,

CONSIDERING that, as noted in the Decision of 11 December 2007, the Chamber finds that Exhibit P 02280 in itself does not contain sufficient indicia of authenticity and, consequently, it must deny the request for admission,

² Motion, paras. 2 to 4.

³ Joint Response, paras. 1 and 4.

⁴ Joint Response, para. 2.

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 89 of the Rules,

DENIES the Motion and thus the request to admit Exhibit P 09769 **AND**

DENIES the request to admit Exhibit P 02280 for which the Chamber had previously deferred its ruling.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this eighth day of January 2008
At The Hague
The Netherlands

[Seal of the Tribunal]