



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: 31 January 2008
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: 31 January 2008

THE PROSECUTOR

v.

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

**DISSENTING OPINION OF THE PRESIDING JUDGE ON THE EXCLUSION OF
EVIDENCE PRESENTED DURING THE TESTIMONY OF WITNESS DZ**

PUBLIC

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 Ćorić
Mr Fahrudin Ibrišimović and Mr Roger Sahota for Berislav Pušić

The Trial Chamber rendered a majority decision dated 31 January 2008 on the admission of evidence related to Witness DZ in which it rejected evidence presented by several Defence teams. A majority of the Trial Chamber Judges rejected Exhibits 1D 01595 and 1D 01936 for the reasons explained in the annex attached to the decision. I consider that these exhibits should have been admitted.

Consistent with my previously stated opinions on the same subject,¹ I consider that the admission of exhibits is not governed solely by the “exchange” a witness may give about an exhibit in the *inter partes* hearing.

Exhibit 1D 01595

This document is a transcript of a meeting held on 18 May 1993 in Medugorje among several participants, including President Tudjman, Lord Owen, Mr Stoltenberg, internationals as well as Croatian and Muslim officials, to discuss the modalities for peace negotiations. Since this document was discussed in court, its content is particularly relevant in that it concerns the political context and the joint criminal enterprise alleged in the Indictment. Moreover, this document seems to be corroborated by other documents tendered into the record and thus offers indicia of reliability.

Exhibit 1D 01936

This document is an undated letter from Haris SILAJDŽIĆ, Minister of Foreign Affairs, to President IZETBEGOVIĆ and to other personalities about a joint declaration and its implementation. The Chamber has already had many documents on this subject which support this document in terms of its relevance, reliability and probative value.

¹ See for example the Dissenting Opinion on the Non-Admission of Evidence Presented during the Testimony of Witness DW, 4 December 2007.

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

 /signed/

Jean-Claude Antonetti
Presiding Judge

Done this 31st day of January 2008

At The Hague

The Netherlands

[Seal of the Tribunal]