



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: 28 May 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: 28 May 2008

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON THE PRLIĆ DEFENCE MOTION TO ADD EXHIBITS TO
THE RULE 65 *ter* EXHIBIT LIST**

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

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 “Jadranko Prlić’s Motion to Add Exhibits to the Rule 65 *ter* Exhibit List”, filed confidentially on 24 April 2008 (“Motion”) in which the Defence for the Accused Prlić (“Prlić Defence”) asks the Chamber to authorise it to add 68 exhibits to its exhibit list (“Proposed Exhibits”),

CONSIDERING that on 31 March 2008, the Prlić Defence filed its confidential list of exhibits pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“65 *ter* List”),

CONSIDERING that neither the Prosecution nor the Stojić, Praljak, Petković, Ćorić and Pušić Defence teams filed a response to the Motion,

CONSIDERING as a preliminary remark that the Chamber notes that the Proposed Exhibits to be added to the 65 *ter* list were prematurely downloaded to the e-court system with a 65 *ter* number before the Chamber ruled on the Motion,

CONSIDERING furthermore that the Chamber notes that the Proposed Exhibits have not been translated or have been translated only in part,

CONSIDERING that the Chamber would remind the Parties that they are not to download documents to the e-court system that are not on the 65 *ter* List and in future to make available original documents and their translations on CD-Rom in support of possible motions to add exhibits to the 65 *ter* List,

CONSIDERING that as to the merits of the Motion, the Chamber recalls that in order for a motion to add exhibits to the 65 *ter* List to be favourably received, the exhibits to be presented to a witness at the hearing must be disclosed to the Parties sufficiently in advance so as not to hinder the latter in the preparation of their cross-examination,

CONSIDERING furthermore that the Chamber may take into consideration other factors that argue for or against a motion to add exhibits,

CONSIDERING that, in principle, when a motion is made to add exhibits to the 65 *ter* List, the Chamber always makes a *prima facie* examination of the reliability, relevance and probative value of the documents presented to it,

CONSIDERING that in the present case, the Chamber cannot make a full examination since the Prlić Defence has not provided English translations of many documents,

CONSIDERING that in spite of this lack of diligence and the impossibility of making a *prima facie* examination of the Proposed Exhibits, the Chamber decides to accept their addition to the 65 *ter* List since the Motion was made shortly after the filing of the 65 *ter* List and no prejudice to the Parties is alleged,

CONSIDERING however that the Chamber invites the Prlić Defence to file English translations of the documents in the e-court system as soon as possible, particularly those it intends to present to witnesses at the hearing in the near future,

CONSIDERING consequently that the Chamber decides to grant the Motion and authorises the Prlić Defence to add the 68 exhibits to its 65 *ter* List,

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54, 65 *ter* and 89 (C) of the Rules,

GRANTS the Motion and consequently

AUTHORISES the Prlić Defence to add the Proposed Exhibits to its 65 *ter* List

AND

INVITES the Prlić Defence to download to the e-court system the Proposed Exhibits translated into English as soon as possible.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-eighth day of May 2008
At The Hague
The Netherlands

[Seal of the Tribunal]