



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: 15 July 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: 15 July 2008

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON MOTION FOR RECONSIDERATION FILED BY
THE PRLIĆ DEFENCE**

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 confidential “Jadranko Prlić’s Motion for Reconsideration of the Trial Chamber’s Order Admitting Evidence Related to Witness Zdravko Sančević Rendered on 12 June 2008” filed by Counsel for the Accused Prlić (“Prlić Defence”) on 20 June 2008 (“Motion”) wherein the Prlić Defence respectfully requests the Chamber to reconsider its Order of 12 June 2008¹ in which the Chamber denied the admission into evidence of exhibits 1D 02887, 1D 02930, 1D 02932 and 1D 02911;

NOTING the Order of 12 June 2008 wherein the Chamber rejected the admission into evidence of exhibits 1D 02887 and ID 02911 on the ground that the Prlić Defence failed to indicate precisely the pages of the documents it sought to be admitted as required by the Decision of 24 April 2008,² and of exhibits 1D 02930 and 1D 02932 on the ground that they did not appear on the exhibit list filed by the Prlić Defence pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“65 *ter* List”);³

CONSIDERING that the other parties have not filed a response to the Motion;

CONSIDERING that in support of its Motion, the Prlić Defence argues that Exhibit 1D 02930 is a full translation of document P 01739 partly admitted at the request of the Office of the Prosecutor (“Prosecution”) and that Exhibit 1D 02932 is a full translation of document P 02475 which is on the Prosecution’s 65 *ter* List;⁴

CONSIDERING that in its Motion, the Defence specifies the pages of exhibits 1D 02887 and 1D 02991 which it requests to be admitted and submits that they can now be admitted by the Chamber;⁵

CONSIDERING that a Trial Chamber has the inherent power to reconsider its own decisions and that it may grant a motion on reconsideration if the moving party

¹ Order Admitting Evidence Related to Witness Zdravko Sančević, 12 June 2008 (“Order of 12 June 2008”).

² Decision Adopting Guidelines for the Presentation of Defence Evidence, 24 April 2008 (“Decision of 24 April 2008”).

³ Order of 12 June 2008, pp. 4 and 5.

⁴ Motion, paras. 2 and 3.

demonstrates to the Chamber the existence of a clear error of reasoning in the contended decision or that particular circumstances, which could be new facts or arguments,⁶ justify its reconsideration in order to avoid injustice;⁷

CONSIDERING that having analysed exhibits 1D 02887 and 1D 02991, the Chamber holds that they now meet the criteria for admissibility laid down in the Decision Adopting Guidelines for the Presentation of Defence Evidence of 24 April 2008 (“Decision of 24 April 2008”)⁸ since they were put to Witness Zdravko Sančević in court and present sufficient indicia of relevance, probative value and reliability;

CONSIDERING that, since the Chamber finds that the admission of these exhibits will not cause prejudice to the other parties to the trial, it exceptionally decides, in the interests of justice, to admit pages 1D 52-0931 to 1D 52-0942 of the English translation of Exhibit 1D 02887 and pages 1D 54-1228, 1D 54-1229, 1D 54-1232 and 1D 54-1233 of the English translation of Exhibit 1D 02911;

CONSIDERING that the Chamber further recalls that, in keeping with Rule 65 *ter* (G) of the Rules which requires the Defence to prepare a list of exhibits it intends to offer in support of its case, it requested the different Defence teams to include in their respective 65 *ter* Lists all the documents they intended to offer in support of their case, regardless of whether or not they are on the Prosecution’s 65 *ter* List;⁹

CONSIDERING therefore that, in order to avoid all prejudice to the other parties to the trial, the Chamber finds it appropriate not to admit into evidence exhibits 1D 02930 and 1D 02932;

⁵ Motion, paras. 1 and 4.

⁶ *The Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Decision on Defence’s Request for Reconsideration, 16 July 2004, pp. 3 and 4 quoting *The Prosecutor v. Laurent Semanza*, Case No. ICTR-97-20-T, Trial Chamber III, Decision on Defence Motion to Reconsider Decision Denying Leave to Call Rejoinder Witnesses, 9 May 2002, para. 8.

⁷ *The Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Decision on Defence’s Request for Reconsideration, 16 July 2004, pp. 3 and 4 quoting *The Prosecutor v. Zdravko Mucić et al.*, Case No. IT-96-21A*bis*, Appeals Judgment on Sentence, 8 April 2003, para. 49; *The Prosecutor v. Popović et al.*, Case No. IT-05-88-T, Decision on Defence Motion for Certification to Appeal Decision Admitting Written Evidence pursuant to Rule 92 *bis*, 19 October 2006, p. 4.

⁸ Decision of 24 April 2008, Guideline 8.

⁹ Electronic mail from the Chamber’s legal officer to the Defence teams dated 20 February 2008.

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 65 *ter* (G) and 89 of the Rules,

PARTLY GRANTS the Motion,

DECIDES to admit into evidence pages 1D 52-0931 to 1D 52-0942 of the English translation of Exhibit 1D 02887 and pages 1D 54-1228, 1D 54-1229, 1D 54-1232 and 1D 54-1233 of the English translation of Exhibit 1D 02911, **AND**

DENIES the Motion in all other respects for the reasons stated in this Decision.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this fifteenth day of July 2008
At The Hague
The Netherlands

[Seal of the Tribunal]