

**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: 1 September 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

Order of: 1 September 2008

THE PROSECUTOR

v.

**Jadranko PRLIĆ
Bruno STOJIC
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ĆORIĆ
Berislav PUŠIĆ**

PUBLIC

**ORDER TO ADMIT EVIDENCE
REGARDING WITNESS MIOMIR ŽUŽUL**

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 Stojic
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”),

NOTING the requests for admission filed by Counsel for the Accused Prlić (“Prlić Defence”), the Office of the Prosecutor (“Prosecution”), Counsel for the Accused Praljak (“Praljak Defence”) and Counsel for the Accused Petković (“Petković Defence”) in which they request respectively the admission of 20, 19, 1 and 4 exhibits regarding the testimony of Miomir Žužul¹ who appeared from 6 to 8 May 2008 and from 21 to 22 July 2008² (“Proposed Exhibits”),

NOTING the written submission filed by the Prosecution on 24 July 2008, in which it objects to the admission of exhibits 1D 01556, 1D 01713, 1D 2895 and 1D 02902 submitted for admission by the Prlić Defence on the ground that the Prlić Defence did not present these exhibits to the witness at the hearing,³

NOTING the written submission filed by the Praljak Defence on 24 July 2008 in which it objects to the admission of exhibits P 10553, P 10554 and P 10557 submitted for admission by the Prosecution on the ground that these exhibits were not presented to the witness by the Prosecution at the hearing; in particular with regard to Exhibit P10554, which is the printout of a web page illegally reproducing song lyrics, the Praljak Defence considers that this exhibit lacks reliability, has no connection to the crimes as alleged in the Indictment and has no probative value,⁴

NOTING the written submission filed by the Ćorić Defence on 26 July 2008, in which it objects to the admission of Exhibit P 10554 submitted for admission by the

¹ Jadranko Prlić’s Motion for the Admission of Exhibits Tendered Through Witness Miomir Žužul, confidential, 23 June 2008; Prosecution Request for Admission of Documents Used with Witness Miomir Žužul, 23 June 2008; Slobodan Praljak’s Request for Admission of Exhibits Tendered Through Witness Miomir Žužul, 23 June 2008; Milivoj Petković’s Request for Admission of Exhibits Tendered Through Witness Miomir Žužul, 23 June 2008.

² Court Transcript in French, pp. 27547 to 27837 and 31045 to 31234.

³ Prosecution Objections to 1D List of Tendered Documents for Witness Miomir Žužul, 24 July 2008.

⁴ Opposition of Slobodan Praljak to Prosecution Request for Admission of Documents Allegedly Used with Witness Miomir Žužul, 24 July 2008.

Prosecution on the ground that this exhibit was not presented to the Witness by the Prosecution at the hearing, and that it lacks relevance and probative value,⁵

NOTING the withdrawal request filed by the Prosecution on 28 July 2008, in which it requests the Chamber to authorise it to withdraw the request to admit Exhibit P 10554 (Prosecution Withdrawal of Request for Admission of Exhibit P 10544 in Relation to Witness Miomir Žužul),⁶

CONSIDERING that the Chamber has examined each of the Proposed Exhibits on the basis of the admissibility criteria set out in its Decision on Admission of Evidence, rendered by the Chamber on 13 July 2006 (“Decision of 13 July 2006”) and on the Decision Adopting Guidelines for the Presentation of Defence Evidence, rendered by the Chamber on 24 April 2008 (Decision of 24 April 2008),⁷

CONSIDERING that the Chamber has examined exhibits 1D 01556, 1D 01713, 1D 2895 and 1D 02902, submitted for admission by the Prlić Defence, as well as exhibits P 10553, P 10554 and P 10557, submitted for admission by the Prosecution, in light of the objections raised by the Parties,⁸

CONSIDERING that the Chamber decides to admit into evidence the Proposed Exhibits indicated “admitted” in the Annex attached to this Decision since they were put to Witness Miomir Žužul and bear sufficient indicia of relevance, probative value and reliability,

CONSIDERING that the Chamber decides not to admit into evidence the Proposed Exhibits indicated “not admitted” in the Annex attached to this Decision since they are not consistent with the instructions set out in the Decisions of 13 July 2006 and 24 April 2008,

⁵ Valentin Ćorić’s Response to Prosecution Request for Admission of Documents Used with Witness Miomir Žužul, 26 July 2008.

⁶ Prosecution Withdrawal of Request for Admission of Exhibit P 10544 in Relation to Witness Miomir Žužul, 28 July 2008.

⁷ Guideline 8 on the admission of documentary evidence through a witness.

⁸ Prosecution Objections to 1D List of Tendered Documents for Witness Miomir Žužul, 24 July 2008; Opposition of Slobodan Praljak to Prosecution Request for Admission of Documents Allegedly Used with Witness Miomir Žužul, 24 July 2008; Valentin Ćorić’s Response to Prosecution Request for Admission of Documents Used with Witness Miomir Žužul, 26 July 2008.

CONSIDERING that the Chamber reminds the Parties to indicate in their requests for admission the *ecourt* pages of the exhibits requested for admission,

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 89 of the Rules of Procedure and Evidence,

GRANTS the Prosecution Withdrawal of Request for Admission of Exhibit P 10544,

GRANTS the request for admission by the Praljak Defence,

PARTIALLY GRANTS the requests for admission by the Prlić Defence, the Petković Defence and the Prosecution,

DENIES in all the other respects the requests of the Prlić Defence, the Petković Defence and the Prosecution for the reasons stated in the Annex attached to this Decision **AND**

DECLARES MOOT the request of the Prlić Defence regarding two pages of Exhibit 1D 02910 and four pages of Exhibit 1D 02911 for the reasons stated in the Annex attached to this Decision,

DECLARES MOOT the Prosecution request concerning 18 pages of Exhibit P 07856 and Exhibit P 10481 for the reasons stated in the Annex attached to this Decision,

DECIDES that the documents indicated “admitted” in the Annex attached to this Decision should be admitted into evidence,

DECIDES that the documents indicated “not admitted” in the Annex attached to this Decision should not be admitted into evidence,

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this first day of September 2008

At The Hague

The Netherlands

[Seal of the Tribunal]

Annex

Exhibit number (preferably in numerical order)	Party proposing admission of the exhibit	Admitted/Not admitted/ Marked for identification (MFI)
1D 00397	Prlić Defence	Admitted
1D 00400	Prlić Defence	Admitted
1D 01321	Prlić Defence	Admitted
1D 01540	Prlić Defence	Admitted
1D 01541	Prlić Defence	Admitted
1D 01542	Prlić Defence	Admitted
1D 01556	Prlić Defence	Not admitted (reason: the document was not presented to the witness at the hearing.)
1D 01713	Prlić Defence	Not admitted (reason: the document was not presented to the witness at the hearing.)
1D 01935	Prlić Defence	Admitted
1D 02039	Prlić Defence	Admitted
1D 02295	Prlić Defence	Admitted
1D 02365	Prlić Defence	Not admitted (reason: the document was not presented to the witness at the hearing.)
1D 02567	Prlić Defence	Admitted
1D 02573	Prlić Defence	Admitted
1D 02895	Prlić Defence	Not admitted (reason: the document was not presented to the witness at the hearing.)
1D 02896	Prlić Defence	Admitted
1D 02902	Prlić Defence	Not admitted (reason: the document was not presented to the witness at the hearing.)
1D 02910 (7 pages: ⁹ pp. 2, 38, 43, 96-99 in the English translation; pp. 2, 38, 43, 95-98 in the original version in BCS.)	Prlić Defence	Moot (2 pages: pp. 2, 38, in the English translation) (reason: exhibit 1D 02910 corresponds to an exhibit already admitted as P 00037 of which pages 38 and 2 were admitted respectively

⁹ The pages indicated in this table refer to pages in the electronic e-court system.

		<p>on 28 September 2006 and 23 January 2008.)</p> <p>Admitted (5 pages: pp. 43, 96, 97, 98 and 99 in the English translation) (note: pages 1 to 51 of exhibits 1D 02910 and P 00037 are similar. Nevertheless, exhibit 1D 02910 differs from exhibit P 00037 in that it is an alternative translation proposed by the Prlić Defence of 11 pages of the pages of P 00037. By the present Decision the Chamber has decided to admit the pages of this translation for which the Prlić Defence submitted a request for admission.)</p>
1D 02911	Prlić Defence	<p>Moot (4 pages: pp. 53-54 and 57-58, in the English translation) (reason: these pages were already admitted on 15 July 2008.)</p> <p>Not admitted in all other respects (reason: the Defence referred to the document of 137 pages in a general fashion at the audience without referring to specific passages. Furthermore, this document was not discussed in detail by the witness and consequently the witness was unable to enlighten the Chamber with regard to its content.</p>
P 07277	Prlić Defence	Not admitted (reason: the document was not presented to the witness at the hearing.)
3D 01067 (1 page: p. 25 in the original version in BCS; p. 17 in the English translation.)	Praljak Defence	Admitted (1 page: p. 25 in the original version in BCS; p. 17 in the English translation)
4D 00410	Petković Defence	Admitted

4D 01040	Petković Defence	Admitted
4D 01052	Petković Defence	Not admitted (reason: the Petković Defence did not specify the page numbers requested for admission.)
4D 01118	Petković Defence	Not admitted (reason: the Petković Defence did not specify the page numbers requested for admission)
P 07856 (25 pages: pp. 1-12, 28, 33-34, 43, 59-60, 65-68, 80-83 in the English translation.)	Prosecution	<p>Moot (17 pages: pp. 1-5, 7, 10-12, 59-60, 66-68, 80-83) (reason: these pages were already admitted on 17 January 2008.)</p> <p>Moot (1 page: p. 43) (reason: this page was already admitted on 17 July 2008.)</p> <p>Not admitted (4 pages: pp. 6, 9, 34 and 65) (reason: the Prosecution did not present these four pages to the witness at the hearing.)</p> <p>Admitted (3 pages: pp. 8, 28 and 33)</p>
P 08630 (89 pages : pp. 8-9, 87-88, 91-93, 144, 148-150, 153, 213-216, 266-268 in the original version in English; pp. 13, 71-72, 73-75, 98-99, 101-103, 161-163 in the BCS translation.)	Prosecution	<p>Admitted (4 pages: pp. 9, 91, 213-214 in the English version and the corresponding pages in the BCS translation.)</p> <p>Not admitted (85 pages) (reason: the Prosecution did not present these pages to the witness at the hearing.)</p>
P 10401	Prosecution	Admitted
P 10403	Prosecution	Not admitted (reason: the witness was unable to enlighten the Chamber regarding the authenticity, relevance and probative value of this exhibit at the hearing.)
P 10481	Prosecution	Moot (note: already admitted on 17 July 2008 through Witness 1D-AA.)
P 10535	Prosecution	Not admitted (reason: the

		BCS translation of the document is missing.)
P 10539	Prosecution	Not admitted (reason: the BCS translation of the document is missing.)
P 10544	Prosecution	Not admitted (reason: the BCS translation of the document is missing.)
P 10545	Prosecution	Admitted
P 10546	Prosecution	Not admitted (reason: the witness was unable to enlighten the Chamber regarding the authenticity, relevance and probative value of this exhibit at the hearing.)
P 10547	Prosecution	Not admitted (reason: the witness was unable to enlighten the Chamber regarding the authenticity, relevance and probative value of this exhibit at the hearing. Furthermore, the BCS translation of this document is not available in the <i>ecourt</i> data base system.)
P 10548	Prosecution	Not admitted (reason: the witness was unable to enlighten the Chamber regarding the authenticity, relevance and probative value of this exhibit at the hearing. Furthermore, the BCS translation of this document is not available in the <i>ecourt</i> data base system.)
P10550	Prosecution	Admitted
P10552	Prosecution	Admitted
P10553	Prosecution	Not admitted (reason: the document was not presented to the witness at the hearing.)
P10554	Prosecution	Not admitted (reason: the document was not presented to the witness at the hearing.)
P10555	Prosecution	Not admitted (reason: the witness was unable to enlighten the Chamber regarding the authenticity,

		relevance and probative value of this exhibit at the hearing.)
P10556	Prosecution	Not admitted (reason: the witness was unable to enlighten the Chamber regarding the authenticity, relevance and probative value of this exhibit at the hearing.)
P10557	Prosecution	Not admitted (reason: the document was not presented to the witness at the hearing.)