



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: 14 January 2009
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

Acting Registrar: Mr John Hocking

Decision of: 14 January 2009

THE PROSECUTOR

v.

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

PUBLIC

DECISION ON PROSECUTION REQUEST FOR ADMISSION OF EXHIBIT P 01032

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 the “Prosecution Request for Admission of P 01032”, submitted by the Office of the Prosecutor (“Prosecution”) on 27 November 2008, to which a CD-Rom containing a video is attached in annex, in which the Prosecution requests that the Chamber admit Exhibit P 01032 into evidence (“Request”),

CONSIDERING that none of the Parties filed a response to the Motion,

CONSIDERING that in support of the Motion, the Prosecution recalls that by Decision of 9 October 2008,¹ a majority of the Chamber rejected the admission of Exhibit P 01032 on the ground that the Prosecution was requesting the admission of a transcription that was longer than the video shown in court during the appearance of Witness Zoran Perković on 4 September 2008,²

CONSIDERING that the Prosecution has now corrected this technical error by attaching to the request a CD-Rom containing the video shown to Zoran Perković in court and by specifying which excerpts from the transcription correspond to this video,³

CONSIDERING that, as a preliminary remark, the Chamber notes that since it has already ruled on the admission of Exhibit P 01032 by Decision of 9 October 2008, the Request is in fact a request for reconsideration of that decision; as a result, the Chamber decides to deal with the Request as such,

CONSIDERING that a Trial Chamber has the inherent power to reconsider its own decisions and that it may grant a request for reconsideration if the moving party satisfies the Chamber of the existence of a clear error in the reasoning of the

¹ Order on Admission of Evidence Relating to Witness Zoran Perković, 9 October 2008 (“Decision of 9 October 2008”).

² Request, para. 2.

³ Request, para. 3.

impugned decision or that particular circumstances, which may be new facts or new arguments,⁴ justify its reconsideration in order to avoid an injustice,⁵

CONSIDERING that the Chamber notes that the Prosecution has indeed corrected the technical error that initially caused Exhibit P 01032 to be rejected; that the video contained in Exhibit P 01032 was in fact shown to Witness Zoran Perković in court on 4 September 2008 and that this witness was able to provide information enabling the Chamber to assess its reliability, relevance and probative value,

CONSIDERING that the Chamber holds that Exhibit P 01032 is particularly relevant to the extent that it refers to the proclamation of the Croatian Community of Herceg-Bosna, alleged in paragraph 21 of the Amended Indictment of 11 June 2008,

CONSIDERING moreover that, having analyzed Exhibit P 01032 on the basis of the admissibility criteria defined in the Decision on Admission of Evidence, rendered by the Chamber on 13 July 2006, as well as in the Decision Adopting Guidelines for the Presentation of Defence Evidence, rendered by the Chamber on 24 April 2008,⁶ the Chamber considers that this exhibit bears sufficient indicia of reliability and probative value,

CONSIDERING that, consequently, the Chamber holds that it is in the interests of justice to admit Exhibit P 01032 into evidence,

⁴ *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, citing *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 Witness, 9 May 2002, para. 8.

⁵ *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, citing in particular *The Prosecution v. Zdravko Mucić et al.*, Case No. IT-96-21A^{bis}, Judgment on Sentence Appeal, 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.

⁶ Guideline 8 relating to the admission of documentary evidence through a witness.

FOR THESE REASONS,

IN ACCORDANCE WITH Rule 89 (C) of the Rules of Procedure and Evidence,

GRANTS the Request, and

ADMITS Exhibit P 01032 into evidence.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this fourteenth day of January 2009
At The Hague
The Netherlands

[Seal of the Tribunal]