



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: 18 February 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

Order of: 18 February 2009

THE PROSECUTOR

v.

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

PUBLIC

**ORDER ADMITTING EVIDENCE REGARDING EXPERT WITNESS MILAN
CVIKL**

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”),

NOTING the request to admit 36 exhibits submitted by Counsel for the Accused Prlić (“Prlić Defence”);¹ the request to admit five exhibits submitted by Counsel for the Accused Stojić (“Stojić Defence”);² the request to admit one exhibit submitted by Counsel for the Accused Praljak (“Praljak Defence”)³ and the request to admit six exhibits submitted by the Office of the Prosecutor (“Prosecution”),⁴ relating to the testimony of Milan Cvikić (“Proposed Exhibits”) who appeared from 12 to 15 January 2009,

NOTING the objections raised by the Prosecution to three Proposed Exhibits from the Prlić Defence⁵ and to four Proposed Exhibits from the Stojić Defence,⁶

CONSIDERING firstly that the Chamber notes that in their requests for admission, the Parties indistinctly refer to either the page numbers displayed in the e-court system on the right, to the page numbers of the documents themselves or finally to the ERN numbers,

CONSIDERING that in view of the Chamber’s practice of requiring that the pages of the documents requested for admission by the Parties be cited according to the page numbers in the English version of the document in the e-court system, the Chamber calls on the Parties to conform to this practice,

CONSIDERING that the Chamber notes that amongst the Proposed Exhibits, Exhibit 1D 03111 is an expert report drawn up by Witness Milan Cvikić and that it was disclosed pursuant to Rule 94 *bis* of the Rules of Procedure and Evidence (“Rules”) on 10 October 2008,⁷

¹ IC 00897.

² IC 00898.

³ IC 00899.

⁴ IC 00900.

⁵ IC 00901.

⁶ IC 00902.

⁷ Jadranko Prlić’s Submission of the Expert Report of Milan Cvikić, 10 October 2008.

CONSIDERING that the Chamber notes that Exhibits 1D 00003, 1D 00013, 1D 00561 and 1D 02337, proposed by the Prlić Defence, and Exhibits 1D 00310, 1D 00302 and 1D 00295, proposed by the Stojić Defence, were already admitted by the Chamber⁸ and that the request in respect of them is therefore moot,

CONSIDERING that the Chamber has examined each of the Proposed Exhibits based on the admissibility criteria defined in the Decision on the Admission of Evidence rendered by the Chamber on 13 July 2006 (“Decision of 13 July 2006”), and in the Decision Adopting Guidelines for the Presentation of Defence Evidence of 24 April 2008 (“Decision of 24 April 2008”),⁹

CONSIDERING that the Chamber decides to admit into evidence the Proposed Exhibits marked “admitted” in the Annex attached to this decision as they were put to Witness Milan Cvikl in court and present sufficient indicia of relevance, probative value and reliability,

CONSIDERING that the Chamber decides not to admit into evidence the Proposed Exhibits marked “not admitted” in the Annex attached to this decision as they do not comply with the instructions laid down in the Decisions of 13 July 2006 and 24 April 2008 for the reasons set out in the Annex attached to this decision,

FOR THE FOREGOING REASONS,

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

PARTIALLY GRANTS the requests of the Prlić and Stojić Defences and the request for admission from the Prosecution,

DISMISSES AS MOOT the request of the Prlić Defence in respect of Proposed Exhibits 1D 00003, 1D 00013, 1D 00561 and 1D 02337 for the reasons set out in the Annex attached to this Decision,

⁸ Order Admitting Evidence Regarding Witness Neven Tomić, 21 January 2009 (“Order of 21 January 2009”).

⁹ Guideline 8 on the Admission of Documentary Evidence through a witness.

DISMISSES AS MOOT the request from the Stojić Defence in respect of Proposed Exhibits 1D 00310, 1D 00302, 1D 00295 for the reasons set out in the Annex attached to this Decision,

ADMITS into evidence the Proposed Exhibits marked “admitted” in the Annex attached to this decision,

DENIES the request of the Praljak Defence,

DENIES by a majority the request from the Prlić Defence in respect of Exhibits 1D 02972 and 1D 02994 and the request from the Stojić Defence in respect of Exhibit 1D 00299, **AND**

DENIES in all other respects the requests for admission from the Prlić Defence and the Prosecution for the reasons set out in the attached Annex,

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

/signed/

Jean-Claude Antonetti

Presiding Judge

Done this eighteenth day of February 2009

At The Hague

The Netherlands

[Seal of the Tribunal]

Annex

Exhibit Number	Party Proposing Admission of the Exhibit	Admitted/Not Admitted/Marked for identification (MFI)
1D 00003	Prlić Defence	Moot (Already admitted by the Order of 21 January 2009)
1D 00013	Prlić Defence	Moot (Already admitted by the Order of 21 January 2009)
1D 00239	Prlić Defence	Admitted
1D 00244	Prlić Defence	Admitted
1D 00558	Prlić Defence	Admitted
1D 00561	Prlić Defence	Moot (Already admitted by the Order of 21 January 2009)
1D 00635	Prlić Defence	Admitted
1D 02337	Prlić Defence	Moot (Already admitted by the Order of 21 January 2009)
1D 02523	Prlić Defence	Admitted
1D 02959 in whole or, alternatively, as requested by the Prlić Defence, 4 pages : 1D59-0030, 1D59-0086, 1D59-0104 and 1D59-0106 ¹⁰	Prlić Defence	Admitted in part (6 pages: 1, 2, 30, 86, 104 and 106)
1D 02964	Prlić Defence	Admitted
1D 02966, one page 1D59-0293 ¹¹	Prlić Defence	Admitted (2 pages: 1 and 153)
1D 02967 in whole or, alternatively, as requested by the Prlić Defence, 2 pages : 1D59-0649 and 1D59-0659 ¹²	Prlić Defence	Admitted in part (3 pages: 1, 9 and 19)
1D 02972, 3 pages : 1D59-1463 to 1D59-1465 ¹³	Prlić Defence	Not admitted by a majority (the document concerns Slovenia and does not pertain to the allegations in the Indictment)
1D 02974, all of chapter 2 (1D61-0425 to 1D61-0441) and 6 (1D61-0493 to 1D61-0508) or alternatively 2 pages : 1D61-0426 and 1D61-0504 ¹⁴	Prlić Defence	Admitted in part (3 pages: 1, 74 and 152)
1D 02976	Prlić Defence	Admitted
1D 02977	Prlić Defence	Admitted
1D 02980	Prlić Defence	Admitted
1D 02984	Prlić Defence	Admitted
1D 02990	Prlić Defence	Admitted
1D 02991	Prlić Defence	Admitted

¹⁰ Pages 1D59-0030, 1D59-0086, 1D59-0104 and 1D59-0106 correspond to pages 30, 86 104 and 106 of the English version of this document in court.

¹¹ Page 1D59-0293 corresponds to page 153 of the English version of this document in court.

¹² Pages 1D59-0649 and 1D59-0659 correspond to pages 9 and 19 of the English version of this document in court.

¹³ Pages 1D59-1463 to 1D59-1465 correspond to pages 44 to 46 of the English version of this document in court.

¹⁴ Pages 1D61-0426 and 1D61-0504 correspond to pages 74 and 152 in the English version of this document in court.

1D 02994	Prlić Defence	Not admitted by a majority (the witness could not comment on the reliability, relevance and probative value of the exhibit)
1D 02995	Prlić Defence	Admitted
1D 02996	Prlić Defence	Admitted
1D 02997	Prlić Defence	Admitted
1D 03000	Prlić Defence	Admitted
1D 03003	Prlić Defence	Admitted
1D 03004	Prlić Defence	Admitted
1D 03018	Prlić Defence	Admitted
1D 03019	Prlić Defence	Admitted
1D 03021	Prlić Defence	Admitted
1D 03111	Prlić Defence	Admitted
P 00274	Prlić Defence	Admitted
P 07628	Prlić Defence	Admitted
P 08035	Prlić Defence	Admitted
P 09551 in whole or, alternatively, as requested by the Prlić Defence, 3 pages: 36, 42 and 43 ¹⁵	Prlić Defence	Admitted in part (4 pages: 1, 36, 42 and 43)
1D 00310	Stojić Defence	Moot (Already admitted by the Order of 21 January 2009)
1D 00302	Stojić Defence	Moot (Already admitted by the Order of 21 January 2009)
1D 00299	Stojić Defence	Not admitted by a majority
1D 00295	Stojić Defence	Moot (Already admitted by the Order of 21 January 2009)
1D 03036	Stojić Defence	Admitted
3D 02653 BCS 3D33-1848, 3D33-1849, 3D33-1851 ET 3D37-0550 ¹⁶	Praljak Defence	Not admitted (the BCS version of the pages requested for admission does not correspond to the English version of the pages requested for admission, and it is therefore impossible for the Chamber to determine which pages the Praljak Defence is in fact requesting for admission)
P 10763	Prosecution	Admitted
P 10764	Prosecution	Admitted
P 10674	Prosecution	Admitted
P 10765	Prosecution	Admitted
P 00714	Prosecution	Admitted
P 10768	Prosecution	Not admitted (the Prosecution did not specify which pages of this document it is requesting for admission as required by paragraph 30 of the Decision of 24 April 2008).

¹⁵ These page numbers correspond to the page numbers of the English version of this document in court.

¹⁶ Page 3D37-0550 corresponds to page 1 of the English version of this document in court.