



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: 25 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: 25 February 2009

THE PROSECUTOR

v.

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

PUBLIC

ORDER ADMITTING EVIDENCE RELATED TO WITNESS DAVOR MARIJAN

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 for the admission of 28 exhibits presented by Counsel for the Accused Stojić (“Stojić Defence”);¹ the request for the admission of two exhibits presented by Counsel for the Accused Prlić (“Prlić Defence”);² the request for the admission of one exhibit presented by Counsel for the Accused Praljak (“Praljak Defence”);³ the request for the admission of 15 exhibits presented by Counsel for the Accused Petković (“Petković Defence”);⁴ the request for the admission of 10 exhibits presented by Counsel for the Accused Ćorić (“Ćorić Defence”)⁵ and the request for the admission of 4 exhibits presented by the Office of the Prosecutor (“Prosecution”),⁶ which all relate to the testimony of Witness Davor Marijan (“Proposed Exhibit(s)”) who appeared from 19 to 27 January 2009,

NOTING the objections raised by the Petković Defence against the admission of Exhibit 2D 02000 offered by the Stojić Defence,⁷

CONSIDERING that the Chamber first notes that among the Proposed Exhibits, Exhibit 2D 02000 is an expert report prepared by Witness Davor Marijan, and that it was disclosed pursuant to Rule 94 *bis* of the Rules of Procedure and Evidence (“Rules”) on 27 October 2008,

CONSIDERING subsequently that the Chamber has examined each of the Proposed Exhibits on the basis of the admissibility criteria defined in the Decision on 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”),⁸

¹ IC 00905.

² IC 00906.

³ IC 00907.

⁴ IC 00908.

⁵ IC 00909.

⁶ IC 00910.

⁷ IC 00911.

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

CONSIDERING that the Chamber notes that Proposed Exhibit P 00646 from the Prlić Defence has already been admitted by the Chamber⁹ and that the request in respect of it is therefore moot,

CONSIDERING that the Chamber also notes that the Proposed Exhibit P 10674 from the Prosecution, as well as pages 1, 36, 42 and 43 of its Proposed Exhibit P 09551, have already been admitted by the Chamber¹⁰ and that the request in respect of them is therefore moot,

CONSIDERING likewise that Proposed Exhibit P 00578 from the Prlić and Stojić Defences has already been admitted by the Chamber¹¹ and that the request in respect of it is therefore moot,

CONSIDERING that the Chamber has duly examined the objections raised by the Petković Defence against the admission of Exhibit 2D 02000,

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 Davor Marijan in court 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 fail to 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 THESE REASONS,

IN ACCORDANCE WITH Rules 54 and 89 of the Rules,

GRANTS the requests for admission of the Praljak, Petković and Ćorić Defences,

PARTIALLY GRANTS the requests for admission of the Stojić Defence and the Prosecution,

⁹ Decision on Admission of Documentary Evidence Related to Herceg-Bosna / HVO Structures and Processes, 7 March 2007 (“Decision of 7 March 2007”).

¹⁰ Order Admitting Evidence Regarding Expert Witness Milan Cvikić, 18 February 2009 (“Order of 18 February 2009”).

¹¹ Order Admitting Evidence Regarding Witness Ilija Kozulj, 4 February 2009 (“Order of 4 February 2009”).

ADMITS into evidence the Proposed Exhibits indicated “admitted” in the annex attached to this decision,

DISMISSES AS MOOT the request for admission of the Prlić Defence in respect of Proposed Exhibit P 00646, the request for admission of the Prosecution in respect of Proposed Exhibit P 10674 and the request for admission of the Prlić and Stojić Defences in respect of Proposed Exhibit P 00578,

PARTIALLY DISMISSES AS MOOT the Prosecution’s request concerning pages 1, 36, 42 and 43 of Proposed Exhibit P 09551,

AND

DENIES the Prosecution’s request as regards the remainder of Proposed Exhibit P 09551.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-fifth 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)
2D 00146	Stojić Defence	Admitted
2D 00439	Petković Defence	Admitted
2D 00485	Prosecution	Admitted
2D 00944	Stojić Defence/ Praljak Defence	Admitted
2D 00949	Stojić Defence	Admitted
2D 00984	Petković Defence	Admitted
2D 01004	Stojić Defence	Admitted
2D 01333	Stojić Defence	Admitted
2D 01353	Stojić Defence	Admitted
2D 01370	Stojić Defence	Admitted
2D 01399	Stojić Defence	Admitted
2D 01446	Stojić Defence	Admitted
2D 01450	Stojić Defence	Admitted
2D 01458	Stojić Defence	Admitted
2D 01485	Stojić Defence/ Prosecution	Admitted
2D 02000	Stojić Defence	Admitted
4D 01183	Petković Defence	Admitted
4D 01156	Petković Defence	Admitted
4D 01279	Petković Defence	Admitted
4D 01280	Petković Defence	Admitted
4D 01281	Petković Defence	Admitted
4D 01282	Petković Defence	Admitted
4D 01283	Petković Defence	Admitted
4D 01284	Petković Defence	Admitted
4D 01285	Petković Defence	Admitted
5D 00440	Čorić Defence	Admitted
5D 03046	Čorić Defence	Admitted
5D 04371	Čorić Defence	Admitted
5D 04380	Čorić Defence	Admitted
5D 04382	Čorić Defence	Admitted
5D 04384	Čorić Defence	Admitted
5D 04385	Čorić Defence	Admitted
5D 04387	Čorić Defence	Admitted
5D 04392	Čorić Defence	Admitted
P 00578	Stojić Defence/ Prlić Defence	Moot (Reason: exhibit already admitted by Order of 4 February 2009)
P 00661	Stojić Defence	Admitted
P 00646	Prlić Defence	Moot (Reason: exhibit already admitted by Decision of 7 March 2007)
P 00774	Stojić Defence	Admitted
P 00775	Stojić Defence	Admitted
P 00777	Stojić Defence	Admitted
P 01072	Stojić Defence	Admitted

P 01077	Stojić Defence	Admitted
P 01081	Stojić Defence	Admitted
P 01098	Petković Defence	Admitted
P 01428	Petković Defence	Admitted
P 01548	Čorić Defence	Admitted
P 02945	Stojić Defence	Admitted
P 03054	Stojić Defence	Admitted
P 03363	Stojić Defence	Admitted
P 04145	Petković Defence	Admitted
P 04234	Stojić Defence	Admitted
P 04550	Stojić Defence	Admitted
P 04890	Stojić Defence	Admitted
P 06203	Stojić Defence	Admitted
P 09551	Prosecution	Moot in respect of pages 1, 36, 42 and 43 of Exhibit P 09551 since the pages were already admitted by Order of 18 February 2009. The remainder not admitted (reason: the Prosecution failed to provide the page and/or paragraph numbers of the excerpt of Exhibit P 09551)
P 10674	Prosecution	Moot, since it was already admitted by Order of 18 February 2009
IC 00904	Petković Defence	Admitted