



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: 7 April 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: 7 April 2009

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON THE PROSECUTION REQUEST FOR RECONSIDERATION
OF THE TRIAL CHAMBER'S ORDER ON THE ADMISSION OF
EVIDENCE RELATED TO WITNESS STIPO BULJAN**

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 request (“Prosecution Request for Reconsideration of the Trial Chamber’s Order on the Admission of Evidence Related to Witness Stipo Buljan (Exhibit P10810)”), filed publicly on 12 March 2009 (“Request”) by the Office of the Prosecutor (“Prosecution”), in which the Prosecution requests that the Chamber reconsider, in part, the Order on the Admission of Evidence related to Witness Stipo Buljan of 10 March 2009, concerning the admission of Exhibit P 10810,

NOTING the IC lists in which Counsel for the Accused Stojić (“Stojić Defence”)¹ and the Prosecution² requested the admission of several pieces of evidence presented through Witness Stipe Buljan who appeared in court on 11 and 12 February 2009,

NOTING the “Prosecution Response to the Bruno Stojić Request for Admission of Exhibit Tendered through Witness Stipo Buljan” of 17 February 2009 (“Response of 17 February 2009”),

NOTING the “Order Admitting Evidence Related to Witness Stipo Buljan” of 10 March 2009 (“Order of 10 March 2009”) in which the Chamber denied the admission of Exhibit P 10810 on the grounds that the pages sought to be admitted had not been specified,

CONSIDERING that the Defence teams did not file a response to the Request,

CONSIDERING that in support of the Request, the Prosecution maintains that in its initial request for admission it specifically requested the admission of Exhibit P 10810 in its entirety;³ that the entire Exhibit is relevant, and not just excerpts of it, because it contradicts the argument put forward by the Defence;⁴ that no objections were made to the admission of Exhibit P 10810,⁵

¹ IC 00921.

² IC 00924.

³ Request, para. 3.

⁴ Request, para. 7.

⁵ Request, para. 4.

CONSIDERING that a Trial Chamber has the intrinsic power to reconsider its own decisions and may grant a request for reconsideration if the requesting party satisfies the Chamber of the existence of a clear error of reasoning in the impugned decision or that particular circumstances, which may be new facts or arguments,⁶ justify its reconsideration in order to avoid injustice,⁷

CONSIDERING that according to the Chamber's Guidelines for the Presentation of Defence Evidence,⁸ the parties must specify the pages of the documents put to the witness in court whose admission is sought and may not seek the admission of very large documents in their entirety, except in special cases of laws and decrees,

CONSIDERING that the Chamber notes that Exhibit P 10810 presented by the Prosecution consists of 27 pages in its original version in BCS and 46 pages in the English version and that the document is therefore too large to be admitted in its entirety,

CONSIDERING furthermore that the Chamber observes that, in the Response of 17 February 2009, the Prosecution sought the admission of Exhibit P 10810 only if the Chamber admitted Exhibits 2D 00604 through 2D 00624 presented by the Stojić Defence,⁹

CONSIDERING that the Chamber recalls in this respect that it denied the request for admission of Exhibits 2D 00604 through 2D 00624 presented by the Stojić Defence in the Order of 10 March 2009,

CONSIDERING that the Chamber holds under the circumstances that there is no cause to reconsider the dismissal of Exhibit P 10810 and that it should therefore deny the Request,

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, 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 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, citing, *inter alia*, *The Prosecutor 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.

⁸ Decision Adopting Guidelines for the Presentation of Defence Evidence, 24 April 2008, para. 30.

⁹ Response of 17 February 2009, para. 8.

FOR THE FOREGOING REASONS,

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

DENIES the Request.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this seventh day of April 2009

At The Hague

The Netherlands

[Seal of the Tribunal]