



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-03-67-T

Date: 9 July 2009

Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, Presiding
Judge Frederik Harhoff
Judge Flavia Lattanzi

Registrar: Mr John Hocking

Decision of: 9 July 2009

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

**DECISION ON MOTION FOR RECONSIDERATION OF THE DECISION
ON THE ADMISSION OF SELECTED PORTIONS OF THE EVIDENCE OF
ZORAN TOT PURSUANT TO RULE 92 *QUATER***

The Office of the Prosecutor

Mr Daryl Mundis
Ms Christine Dahl

The Accused

Mr Vojislav Šešelj

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 “Decision on Request for Admission of Selected Portions of Zoran Tot’s Evidence Pursuant to Rule 92 *quater*” of the Rules of Procedure and Evidence of the Tribunal (“Rules”), rendered by the Chamber on 3 June 2009 (“Decision of 3 June 2009”);

NOTING the motion for reconsideration of the Decision of 3 June 2009 filed by the Prosecution on 4 June 2009,¹ to which the Prosecution annexes the signed BCS version of Zoran Tot’s statement before the Bosnia and Herzegovina Agency for Investigation and Documentation (“Statement to AID”),² which inadvertently had not been disclosed to the Chamber in its original motion of 7 January 2009;³

CONSIDERING that in its Decision of 3 June 2009, the Chamber indicated that the lack of a signature was the only ground for rejecting the Statement to AID, which the Chamber indicated was, moreover, relevant;⁴

CONSIDERING that the Chamber further specified that if the Prosecution were to present a signed version of the Statement to AID, the Chamber could reconsider its position;⁵

CONSIDERING that a Chamber has the power to reconsider its own decisions, in particular when new facts are presented;⁶

¹ “Prosecution’s Motion for Reconsideration of the Decision on the Admission of Evidence of Deceased Witness Zoran Tot Pursuant to Rule 92 *quater*”, 4 June 2009 (“Motion for Reconsideration”).

² Zoran Tot’s statement titled “Statement to the Agency for Investigation and Documentation in Sarajevo”, dated 12 February 1996 (ERN 0092-4883-0092-4886).

³ “Prosecution’s Motion for Admission of Evidence of Witness Zoran Tot Pursuant to Rule 92 *quater*”, 7 January 2009 (“Motion of 7 January 2009”).

⁴ Decision of 3 June 2009, paras 14-15.

⁵ Decision of 3 June 2009, para. 15.

⁶ *The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić*, Case No. IT-04-74-T, “Decision on Request for Reconsideration and Certification to Appeal the Decision for Admission of the Statement of Jadranko Prlić”, 8 October 2007, p. 11 citing *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.

CONSIDERING that while the Statement to AID does not truly appear to be a new element from the Prosecution, the Chamber is prepared to admit the said Statement, as it is now satisfied that it presents sufficient indicia of reliability;

FOR THE FOREGOING REASONS

PURSUANT TO Rules 89 and 92 *quater* of the Rules;

ADMITS the Statement to AID; and

ORDERS the Registry to assign an exhibit number to the Statement to AID.

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

 /signed/
Jean-Claude Antonetti
Presiding Judge

Done this ninth day of July 2009
At The Hague
The Netherlands

[Seal of the Tribunal]