



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: 17 August 2009
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IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, presiding
Judge Árpád Prandler
Judge Stefan Trechsel
Reserve Judge Antoine Kesia-Mbe Mindua

Registrar: Mr John Hocking

Decision of: 17 August 2009

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON STOJIĆ DEFENCE MOTION FOR THE ADMISSION OF
DOCUMENTARY EVIDENCE (functioning of HVO municipal authorities/brigades
and relationship between them, the bodies of the operative zone and HVO centralised
authority in Mostar)**

The Office of the Prosecutor:

Mr Kenneth Scott
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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

I. INTRODUCTION

1. 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") is seized of "Bruno Stojić's Motion for the Admission of Documentary Evidence Related to the Functioning of HVO Municipal Authorities/Brigades and the Relationship between Bodies at the Municipal Authority/Brigade Level, the Operative Zone Level and the HVO Centralised Authority in Mostar with Annexes I, II and III", to which 3 Annexes are attached, publicly filed by Counsel for the Accused Stojić ("Stojić Defence") on 6 May 2009 ("Motion"), in which the Stojić Defence requests the admission into evidence of 35 documents¹ ("Proposed Exhibits").

II. PROCEDURAL BACKGROUND

2. On 7 May 2009, the Stojić Defence publicly filed "Bruno Stojić's Motion for the Admission of Documentary Evidence Related to Cooperation Between Herceg-Bosna/HVO Authorities/Forces and ABiH Authorities/Forces With Annexes I, II and III" ("Stojić Motion of 7 May 2009"), in which it submits legal arguments regarding the authenticity, reliability and probative value of the Proposed Exhibits.²

3. On 11 May 2009, the Stojić Defence publicly filed the "Corrigendum to Bruno Stojić's Motions for the Admission of Documentary Evidence" accompanied by 2 Annexes ("Corrigendum"), in which it requests that the Chamber admit Exhibit 2D 00589, which was, inadvertently, not presented in support of the Motion.³

4. On 20 May 2009, Counsel for the Accused Praljak ("Praljak Defence") and the Accused Petković ("Petković Defence") publicly filed the "Joint Response of Slobodan Praljak and Milivoj Petković to Bruno Stojić's 6 May 2009 Motion for the Admission of Documentary Evidence Related to the Functioning of HVO Municipal Authorities/Brigades and the Relationship Between Bodies at the Municipal

¹ 2D 00338, 2D 00514, 2D 00579, 2D 00650, 2D 00653, 2D 00671, 2D 00726, 2D 00779, 2D 00784, 2D 00786, 2D 00789, 2D 00796, 2D 00915, 2D 00921, 2D 00937, 2D 00945, 2D 01001, 2D 01019, 2D 01138, 2D 01316, 2D 01319, 2D 01320, 2D 01378, 2D 01452, 2D 01456, 2D 01467, 2D 01472, 2D 01486, 2D 01487, 2D 01494, 2D 01500, 2D 01537, 2D 01538, P 00770 and P 01596.

² See Motion, para. 2.

³ Corrigendum, para. 2.

Authority/Brigade Level, the Operative Zone Level and the HVO Centralised Authorities in Mostar with Annexes I, II and III” (“Joint Response”).

5. On 26 May 2009, the Stojić Defence publicly filed “Bruno Stojić’s Addendum to Motions for Admission of Documentary Evidence with Annex” accompanied by an Annex (“Addendum”), in which it specifies the sources of some of the Proposed Exhibits that were unavailable at the time the Motion was filed.⁴

6. On 27 May 2009, the Stojić Defence publicly filed “Bruno Stojić’s Request for Leave to Reply to Joint Response of Slobodan Praljak and Milivoj Petković to Bruno Stojić’s 6 May 2009 Motion for the Admission of Documentary Evidence Related to the Functioning of the HVO Municipal Authorities/Brigades and the Relationship Between Bodies at the Municipal Authority/Brigade Level, the Operative Zone Level and the HVO Centralised Authority in Mostar with Annexes I, II and III & Bruno Stojić’s Reply to the Joint Response” (Reply to the Joint Response”).

7. On 28 May 2009, the Office of the Prosecutor (“Prosecution”) publicly filed the “Prosecution Response to the Five Motions Filed by Bruno Stojić Pursuant to Rule 89 (C) with Public Annex”, accompanied by an Annex (“Prosecution Response”).

8. On 28 May 2009, the Chamber rendered an oral decision in which it granted leave to the Stojić Defence to reply to the Prosecution Response no later than 11 June.⁵

9. On 5 June 2009, the Stojić Defence publicly filed “Bruno Stojić’s Motion for Leave to Replace English Translations with Annexes I, II and III” (“Motion”).

10. Finally, on 11 June 2009, the Stojić Defence publicly filed “Bruno Stojić’s Request for Leave to Reply to Prosecution Response to the Five Motions Filed by Bruno Stojić Pursuant to Rule 89 (C) With Public Annexes I and II and Bruno Stojić’s Reply to the Joint Response” accompanied by 2 Annexes (“Reply to Prosecution Response”).

⁴ Addendum, paras 2 and 3. The Stojić Defence specifies the sources for the two Proposed Exhibits by way of the Motion: 2D 00779 and 2D 00589. Nevertheless, the Chamber notes that although the Stojić Defence had indicated in para. 2 of the Corrigendum that Exhibit 2D 00589 was inadvertently omitted from the Motion and had consequently requested its addition, in now indicates on p. 6 of the annex to the Addendum, that in actual fact, this exhibit concerns another motion for the admission of documentary evidence filed by the Stojić Defence. Despite this error, the Chamber agrees to deal with Exhibit 2D 00589 in the present Decision.

⁵ Hearing of 28 May 2009, Transcript in French, pp. 40961 to 40963.

III. APPLICABLE LAW

11. Under Rule 89 (C) of the Rules of Procedure and Evidence of the Tribunal ("Rules"), a Chamber may admit any relevant evidence which it deems to have probative value. Moreover, in accordance with Rule 89 (C), every decision by the Chamber on a request to admit documentary evidence is based on this Rule.⁶

12. Furthermore, the Chamber recalls its previous decisions in which it set out the principles for the admissibility of evidence, notably the "Decision on Admission of Evidence", rendered on 13 July 2006, the "Decision Amending the Decision on the Admission of Evidence, 13 July 2006", rendered on 29 November 2006, and the "Decision Adopting Guidelines for the Presentation of Defence Evidence, 24 April 2008" ("Decision of 24 April 2008").

13. Guideline 9 of the Decision of 24 April 2008 ("Guideline 9") concerns in particular the admission of documentary evidence by way of a written motion. Pursuant to Guideline 9, a Defence team presenting its case may seize the Chamber of a written motion requesting the admission of exhibits which have not been put to a witness in court.⁷ The said motion, providing sufficient reasons, must contain the following information, failing which it may be denied:

1. Number, title, and description of the exhibit,
2. Source of the exhibit and a description of its indicia of reliability,
3. Reference to the relevant paragraphs of the Indictment,
4. References to the witnesses who have already appeared before the Chamber and to the exhibits admitted as evidence dealing with the same paragraphs of the Indictment,
5. Reasons why the exhibit is not introduced through a witness,

⁶ "Decision on Jadranko Prlić's Motion to be Relieved from the Strict Application of Guideline 9 of the Decision of 24 April 2008", 23 July 2008, p. 4 ("Decision of 23 July 2008").

6. Reasons why the party considers the document important for the determination of the case.⁸

IV. ARGUMENTS OF THE PARTIES

14. In the Motion, the Stojić Defence refers to the arguments that it submitted in the Stojić Motion of 7 May 2009⁹ and puts forth that the Proposed Exhibits are all relevant, reliable and probative as explained in Annex I.¹⁰ It adds furthermore that they were gathered from institutions recognised by the Tribunal as being reliable, such as the Croatian National Archives and the Government of the Federation of Bosnia and Herzegovina.¹¹ It specifies that some of the Proposed Exhibits were gathered from other sources, and cites, as an example, the Sarajevo Intelligence Services and the Accused Bruno Stojić himself.¹² The Stojić Defence also points out that the majority of the Proposed Exhibits were to be presented through witnesses that it has called to appear during its case, but that it was unable to proceed in this manner due to time constraints.¹³

15. In the Corrigendum, the Stojić Defence argues that it failed to present Exhibit 2D 00589 in support of the Motion and requests that the Chamber admit it as evidence.¹⁴ The Stojić Defence further specifies that Exhibit 2D 00589 does not include any indicia that would enable its source to be identified and pledges to subsequently provide additional information to the Chamber on this issue.¹⁵

16. In their Joint Response, the Praljak Defence and Petković Defence object to the admission of some of the Proposed Exhibits and argue that (1) Exhibit 2D 01001 has already been admitted into evidence;¹⁶ (2) that the content of several Proposed Exhibits has been presented either erroneously or fallaciously, which prevents them

⁷ Decision of 24 April 2008, para. 35.

⁸ Decision of 24 April 2008, para. 35.

⁹ On the legal arguments related to the authenticity, probative value and reliability of the Proposed Exhibits, the Stojić Defence refers in the Motion (para. 2) to its arguments in the Stojić Motion of 7 May 2009.

¹⁰ See in this sense, the Stojić Motion of 7 May 2009, paras 6-8.

¹¹ See in this sense, the Stojić Motion of 7 May 2009, para. 6.

¹² See in this sense, the Stojić Motion of 7 May 2009, para. 6.

¹³ See in this sense, the Stojić Motion of 7 May 2009, para. 4.

¹⁴ Corrigendum, para. 2.

¹⁵ Corrigendum, para. 5.

¹⁶ Joint Response, para. 3 (i).

from being admitted into evidence¹⁷ and (3) that Exhibits 2D 01538 and 2D 01138 contain translation errors.¹⁸

17. By way of its Addendum, the Stojić Defence provided specifications regarding the sources of Proposed Exhibits number 2D 00589 and 2D 00779: in this regard, the Stojić Defence indicates that document 2D 00589 is part of a series of documents obtained by the Prosecution since May 2000 from the Croatian National Archives, the Government of Bosnia and Herzegovina, the Army of Republika Srpska (VRS) and from the Presidential Palace.¹⁹ Furthermore, it specifies that Exhibit 2D 00779 was disclosed by Frane Krnić, the head of the Croatian Office for Co-operation with the Tribunal.²⁰

18. In the Reply to the Joint Response, the Stojić Defence asks the Chamber to grant it leave to reply to the Joint Response due to compelling circumstances, namely the need to clarify issues regarding documents already admitted, the translation of the some of the Proposed Exhibits, and the underlying reasons for the admission of the Proposed Exhibits.²¹ The Stojić Defence goes on to respond to the arguments raised in the Joint Response and indicates that it wishes to withdraw the requests for admission of certain Proposed Exhibits already admitted.²² Furthermore, it admits that Exhibits 2D 01538 and 2D 01138 contain translation errors and requests leave of the Chamber to upload the corrected versions of these exhibits onto e-court.²³ Finally, it responds to the arguments of the Praljak Defence and the Petković Defence regarding the interpretation of certain Proposed Exhibits²⁴.

19. In its Response, the Prosecution requests that the Chamber deny admission of the Proposed Exhibits to which it objected in its annex for the reasons set out in it, and for

¹⁷ Joint Response, para. 3 (ii). This objection relates to Proposed Exhibits 2D 00786, 2D 00937, 2D 00945, 2D 01001, 2D 01138, 2D 01319, 2D 01320, 2D 01456, 2D 01467, 2D 01472, 2D 01500, 2D 01537 and P 01596.

¹⁸ Joint Response, para. 3 (iii).

¹⁹ Addendum, annex p. 6.

²⁰ Addendum, annex p. 6.

²¹ Reply to the Joint Response, para. 1.

²² Reply to the Joint Response, para. 2. The Proposed Exhibits in question are the following: 2D 01001, 2D 01537 and 2D 01538.

²³ Reply to the Joint Response, para. 3.

²⁴ Reply to the Joint Response, paras 4 to 14. The Proposed Exhibits in question are the following: 2D 00786, 2D 00937, 2D 00945, 2D 01001, 2D 01138, 2D 01319, 2D 01320, 2D 01456, 2D 01467, 2D 01472, 2D 01500, 2D 01537 and P 01596.

any other reason determined by the Chamber.²⁵ It adds that the interpretations and descriptions of the Proposed Exhibits provided by the Stojić Defence to show why they are important for the determination of the case must be considered as simple arguments and not evidence as such.²⁶ It also argues that certain Proposed Exhibits (1) do not present sufficient guarantees of authenticity and that they were obtained from unknown or questionable sources, such as the Accused Bruno Stojić and an investigator for the Stojić Defence called Vinko Vrbanac,²⁷ (2) that they come under the principle of *tu quoque* and as such, cannot be admitted as evidence,²⁸ and finally (3) that they are not relevant.²⁹

20. In its Motion, the Stojić Defence requests that the Chamber grant it leave to replace the erroneous English translations for documents 2D 01138, 2D 01538 and 2D 01409.³⁰

21. Finally, in the Reply to the Prosecution Response, the Stojić Defence asks the Chamber to grant it leave to reply to the Prosecution Response due to compelling circumstances, namely the need to clarify issues regarding documents already admitted and the underlying reasons for the admission of the Proposed Exhibits.³¹ The Stojić Defence goes on to respond to the arguments raised in the Prosecution Response³² and submits that (1) the Prosecution did not specify the reasons why it considered that the Proposed Exhibits obtained from the Accused Stojić or from an investigator could not be admitted as evidence, or why that type of document would be less reliable than another, and notes that the inadequacy or lack of information about the source of a document is an issue that affects the weight or the probative

²⁵ Prosecution Response, para. 4. The Prosecution raised objections to the following Exhibits proposed in the Motion: 2D 00579, 2D 00650, 2D 00653, 2D 00671, 2D 00726, 2D 00784, 2D 00786, 2D 00789, 2D 00796 and 2D 01316.

²⁶ Prosecution Response, para. 3.

²⁷ Annex to the Prosecution Response. This type of objection relates to Exhibits 2D 00579, 2D 00786, 2D00789 and 2D 00796.

²⁸ Annex to the Prosecution Response. This type of objection relates to Exhibits 2D 00650, 2D 00653, 2D 00671, 2D 00796 and 2D01316. This type of objection also relates to Exhibit 2D 00589.

²⁹ Annex to the Prosecution Response. This type of objection relates to Exhibits 2D 00726, 2D 00784 and 2D 00786.

³⁰ Motion, para. 1. The Chamber notes that at this time Exhibit 2D 01409 is not part of the Proposed Exhibits of the present Motion and will therefore not be dealt with in the present Decision.

³¹ Reply to the Prosecution Response, para. 1.

³² Reply to the Prosecution Response, paras 1 to 16. The Stojić Defence provided a response to the Prosecution objections and clarified its position in the Reply with regard to the following Proposed Exhibits: 2D 00388, 2D 00579, 2D 00650, 2D 00653, 2D 00671, 2D 00726, 2D 00779, 2D 00784, 2D 00786, 2D 00796, 2D 00915, 2D 00921, 2D 00945, 2D 01001, 2D 01316, 2D 01320, 2D 01537 and 2D 01538.

value of this document but not its admissibility;³³ that the Prosecution cannot allege that the Proposed Exhibits obtained through Vinko Vrbanac are unreliable for that sole reason without substantiating its allegations³⁴ and that 2) that the Prosecution considers that certain Proposed Exhibits come under the principle of *tu quoque* and are therefore not admissible while, according to the Stojić Defence, they refute the allegations in the Amended Indictment of 11 June 2008 ("Indictment").³⁵ Finally, by way of its Reply to the Prosecution Response, the Stojić Defence withdraws its requests for admission of some of the Proposed Exhibits.³⁶

V. DISCUSSION

22. *In limine*, the Chamber decides to grant leave for the Reply to the Joint Response and the Reply to the Prosecution Response insofar as on the one hand, the Stojić Defence withdraws the requests for admission regarding some of the Proposed Exhibits and on the other, specifies the arguments raised in the Motion and responds to the new arguments contained in the Joint Response and the Prosecution Response, on which it did not comment in the Motion.

23. Furthermore, the Chamber grants leave to the Stojić Defence to upload onto e-court the corrected versions in English of Proposed Exhibits 2D 01138 and 2D 01538. The Chamber notes that the references "GSS HVO" and "GSS –Mostar", contained in the BCS versions of these two documents, were respectively translated into English as "HVO Main Headquarters" and "Main Staff" whereas they should have read "HVO Main Medical Staff" and "Main Medical Staff – Mostar".

24. The Chamber also grants leave, exceptionally and in the interest of judicial economy, to the Stojić Defence to upload the English version of Exhibit 2D 01409, which is not part of the Proposed Exhibits. The Chamber notes that this exhibit was already admitted into evidence by the Decision of 17 July 2009 but that reference "per. 6" in the BCS version of the document was translated as "per. 8" in the English version of Exhibit 2D 01409, whereas it should have read "per. 6" in the said version.

³³ Reply to the Prosecution Response, paras 4 to 7.

³⁴ Reply to the Prosecution Response, para. 5.

³⁵ Reply to the Prosecution Response, paras 8 to 15.

³⁶ Reply to the Prosecution Response, para. 16. The Proposed Exhibits in question are the following: 2D 00779, 2D 00915, 2D 00921, 2D 01001, 2D 01537 and 2D 01538.

25. The Chamber goes on to take note of the withdrawal by the Stojić Defence of its requests for admission into evidence of the following Proposed Exhibits: 2D 00779,³⁷ 2D00915,³⁸ 2D 00921,³⁹ 2D 01001,⁴⁰ 2D 01537⁴¹ and 2D 01538⁴² and considers that the Motion is therefore moot with regard to them.

26. The Chamber next recalls that, at this stage of the case, it will carry out only a review of the admissibility of the Proposed Exhibits and will not carry out a final evaluation of their probative value. It will only do so after the close of the case, once all the prosecution and defence evidence has been admitted into the record. In carrying this evaluation, the Chamber will notably take into account the fact that there may be discrepancies between the exhibits and that the Prosecution, and the other defence teams, are contesting their interpretation by the Stojić Defence and their authenticity. The Chamber notes, as does the Stojić Defence, that the numerous objections of the Praljak Defence and the Petković Defence are of an interpretative nature and that they need not be examined at the stage of the admissibility of exhibits.⁴³

27. Moreover, the Chamber notes that several Proposed Exhibits were provided by an investigator from the Stojić Defence but that the Prosecution challenged this source for only two of the Proposed Exhibits, namely Exhibits 2D 00786 and 2D 00789. Nevertheless, in relation to all of the Proposed Exhibits for which the source provided by the Stojić Defence is one of its investigators, the Chamber notes that they are *prima facie* reliable as they bear sufficient indicia of authenticity. Furthermore, the Prosecution did not explain how the absence of information about this investigator could affect the reliability of these Proposed Exhibits. Likewise, the Chamber notes that several Proposed Exhibits were disclosed by the Accused Stojić but that the Prosecution challenged this source for only one of the Proposed Exhibits, document 2D 00579. In this case, the Chamber deems that the Proposed Exhibits for which the

³⁷ Annex I of the Reply to the Prosecution Response, p. 65.

³⁸ Annex I of the Reply to the Prosecution Response, p. 67.

³⁹ Annex I of the Reply to the Prosecution Response, p. 68.

⁴⁰ Annex I of the Reply to the Prosecution Response, p. 69.

⁴¹ Annex I of the Reply to the Prosecution Response, p. 74.

⁴² Annex I of the Reply to the Prosecution Response, p. 74.

⁴³ See particularly the objections raised by the Praljak Defence and Petković Defence in the Joint Response regarding Proposed Exhibits 2D 00945, 2D 01456, 2D 01467 and 2D 01472. See also the Reply to the Joint Response, para. 6.

source is the Accused Stojić are *prima facie* reliable as they bear sufficient indicia of authenticity and that they, therefore, cannot be denied on this ground.

28. The Chamber further wishes to point out that according to several decisions,⁴⁴ it has recalled that the principle of *tu quoque* does not constitute a means of defence in international humanitarian law. Nevertheless, it has specified that the evidence related to the atrocities committed against the Bosnian Croats could be admissible should it go to refuting one of the allegations in the Indictment, but unless the Defence shows how this evidence goes to refuting one or more of these allegations and presents, in that context, a certain degree of relevance, the Chamber will not admit it.⁴⁵ The Tribunal's case-law clearly established that evidence intended to prove that the Bosnian Muslims committed atrocities against Croat civilians in the municipalities that are not covered by the Indictment are not relevant as they do not contribute to refuting the allegations contained in the Indictment with regards to the Accused.⁴⁶ Equally, in the Kupreškić Decision, Trial Chamber II found that the evidence produced to demonstrate that one of the parties to the Croat-Muslim conflict was responsible for triggering the conflict was irrelevant.⁴⁷

29. In this case, the Stojić Defence requests the admission of Proposed Exhibits related to crimes committed against Bosnian Croat civilians and on the tension and conflicts between the HVO and the ABiH.⁴⁸ The Chamber deems it justifiable to present evidence on attacks from the enemy side on civilians belonging to the side of an accused if they go to refuting, for example, the allegation of a general or systematic attack on a civilian population, the allegation of the existence of a concerted plan of attacks on several villages, to explain the behaviour of the accused

⁴⁴“Order to Admit Defence Evidence Relative to Witness Christopher Beese”, 27 September 2006, p. 3; Oral Decision of 16 February 2009, T(F) p. 36878; “Decision on Prosecution Motion to Exclude the Testimony of Dragan Pinjuh”, 27 February 2009, p. 3; “Order Admitting Evidence Related to Witness Veso Vegar”, 5 May 2009, pp. 2 and 3.

⁴⁵ See in particular “Order to Admit Defence Evidence Relative to Witness Christopher Beese”, 27 September 2006, p. 3.

⁴⁶ See, in this sense, *The Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, Dragan Papić, Vladimir Šantić alias Vlado*, Case No. IT-95-16, “Decision on Evidence of the Good Character of the Accused and the Defence of *Tu Quoque*”, 17 February 1999 (“*Kupreškić Decision*”), p. 3.

⁴⁷ *Ibidem*.

⁴⁸ See Proposed Exhibits 2D 00579, 2D 00589, 2D 00650, 2D 00653, 2D 00671, 2D 00726, 2D 00784, 2D 00789, 2D 00796, 2D 01316, 2D 01467, 2D 01472, 2D 01486 and 2D 01487.

or provide information on the organisation and activities of the ABiH and the HVO.⁴⁹ However, it is important in that case that this evidence relates to duly defined issues. In other words, it is up to the party wishing to produce such evidence to explain, for each piece of evidence, the precise link, particularly geographical and temporal, with the crimes alleged in the municipalities of the Indictment and/or with the alleged responsibility of the Accused for these crimes, whether their commission is alleged within or outside the framework of a joint criminal enterprise.

30. The Chamber notes that Proposed Exhibits 2D 00579, 2D 00589, 2D 00653, 2D 00671, 2D 00726, 2D 00784, 2D 00789, 2D 01316, 2D 01486 and 2D 01487 relate to crimes committed against Bosnian Croat civilians and tension and conflicts between the HVO and the ABiH, but deems that the Stojić Defence did not establish a sufficient link between these Proposed Exhibits and the crimes alleged in the Indictment and/or the alleged responsibility of the Accused for these crimes. As an example, the Chamber notes that the Stojić Defence requested the admission of Proposed Exhibit 2D 00671 on the grounds that (1) it shows how information from the information and propaganda services (“IPD”) within the HVO brigades was transmitted to the central authorities based in Mostar⁵⁰ and (2) that the IPD services within the HVO brigades wrote independent reports, without the intervention of the Defence Department.⁵¹ In so doing, the Stojić Defence did not establish a sufficient link between the crimes alleged in the Indictment and/or the alleged responsibility of the Accused for these crimes. The Chamber notes that all the HVO documents that mention their sender(s) and receiver(s) are likely to show how the information circulated within this entity. The Chamber nevertheless deems that this observation alone is insufficient to justify the admission of evidence. Likewise, the Chamber considers that the Stojić Defence, by arguing in a general way that the said Proposed Exhibit shows the independence of the IPD services within the Brigades in sending out reports as opposed to the Defence Department, did not establish a sufficient link to the crimes alleged in the Indictment and/or the alleged responsibility of the Accused for these crimes.

⁴⁹ See, in this sense, *Kupreškić* Decision, p. 4; *The Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, Dragan Papić, Vladimir Šantić alias Vlado*, Case No. IT-95-16-T, Judgment, 14 January 2000, paras 515-520; *The Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković*, Case No. IT-96-23&23/1-A, Judgment on Appeal, 12 June 2002, paras 87-88.

⁵⁰ Annex I of the Reply to the Prosecution Response, p. 64.

⁵¹ Annex I of the Reply to the Prosecution Response, p. 7.

31. Furthermore, the Chamber notes that Proposed Exhibits 2D 00650, 2D 00796 and 2D 01472 also relate to crimes committed against Bosnian Croat civilians and the tension and conflict between the HVO and the ABiH. The Chamber deems that, even if the said Proposed Exhibits are directly addressed to some of the accused, the Stojić Defence did not establish a sufficient link to the crimes alleged in the Indictment and/or the alleged responsibility of the Accused for these crimes.

32. Finally, the Chamber notes that Proposed Exhibits 2D 00786, 2D 00945, 2D 01138, 2D 01378, 2D 01452, 2D 01456 and P 00770 concern either municipalities in which none of the crimes alleged in the Indictment were committed, such as Konjić, Brčko, Livno and Vitez, or the general functioning of the HVO Central Bosnia zone of operations. The Chamber considers in this connection that it is up to the Stojić Defence to justify very precisely the reasons why it deems these Proposed Exhibits important for the determination of the case. In this case, the Chamber considers that the relevance of these Proposed Exhibits to the Indictment is insufficient to admit them as evidence.

33. In light of the information provided by the Stojić Defence in the Motion, in the Corrigendum, in the Addendum, in the Reply to the Joint Response and in the Reply to the Prosecution Response, the objections raised with regard to several Proposed Exhibits in the Prosecution Response and in the Joint Response, the Chamber decides to admit the Proposed Exhibits marked "Admitted" in the Annex to this Decision as they present sufficient indicia of reliability, relevance and probative value with respect to the Indictment and they should therefore be admitted.

34. Finally, the Chamber denies the Proposed Exhibits marked "Not Admitted" in the Annex to this Motion and specifies in the same Annex, for each of the Proposed Exhibits, the grounds for their rejection.

FOR THE FOREGOING REASONS,

PURSUANT to Rule 89 (C) of the Rules of Procedure and Evidence,

AUTHORISES Replies 1 and 2,

AUTHORISES the Stojić Defence to upload the corrected English versions of Proposed Exhibits 2D 01138, 2D 01538 and 2D 01409,

DISMISSES as moot the Motion with regard to Proposed Exhibits 2D 00779, 2D 00915, 2D 00921, 2D 01001, 2D 01537 and 2D 01538 for the reasons set out in the attached Annex,

ADMITS into evidence the Proposed Exhibits marked “Admitted” in the Annex attached to the present Decision, **AND**

DENIES the Motion in all other respects 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 seventeenth day of August 2009
At The Hague
The Netherlands

[Seal of the Tribunal]

Annex

Proposed Exhibits	Admitted/Not Admitted/ Moot
2D 00338	Admitted
2D 00514	Admitted
2D 00579	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 00589	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 00650	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 00653	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 00671	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 00726	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 00779	Moot (Already admitted by the Order to Admit Evidence Regarding Ivan Bagarić ("Order of 14 May 2009"))
2D 00784	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 00786	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 00789	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 00796	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 00915	Moot (Already admitted by the Order of 14 May 2009)
2D 00921	Moot (Already admitted by the Order of 14 May 2009)
2D 00937	Admitted
2D 00945	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 01001	Moot (Already admitted by the Order Admitting Evidence Related to Witness Dragan Pinjuh, dated 10 March 2009 as Exhibit 2D 01223)
2D 01019	Admitted
2D 01138	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 01316	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 01319	Admitted
2D 01320	Admitted
2D 01378	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 01452	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 01456	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)

2D 01467	Admitted
2D 01472	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 01486	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 01487	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
2D 01494	Admitted
2D 01500	Admitted
2D 01537	Moot (Already admitted by the Order of 14 May 2009)
2D 01538	Moot (Already admitted by the Order of 14 May 2009)
P 00770	Not Admitted (The Chamber deems that the Proposed Exhibit is not sufficiently relevant to the Indictment)
P 01596	Admitted