



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: 8 August 2007  
Original: ENGLISH  
French

**IN TRIAL CHAMBER III**

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

**Registrar:** Mr Hans Holthuis

**Decision of:** 8 August 2007

**THE PROSECUTOR**

v.

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

***PUBLIC***

**DECISION ON PROSECUTION MOTION FOR ADMISSION OF EVIDENCE AND  
TO BE RELIEVED FROM GUIDELINE 6 (a) (iv)**

**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 Peter Murphy 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”),

**SEIZED OF** the “Prosecution Motion for Admission of Documentary Evidence”, filed by the Office of the Prosecutor (“the Prosecution”) on 28 June 2007 (“Motion”), in which the Prosecution requests the Chamber to admit 398 documents concerning the structure, processes and operation of HVO military units and to relieve it from the requirement to provide information required under Guideline 6 (a) (iv) set out in the “Decision Amending the Decision on the Admission of Evidence of 13 July 2006,”<sup>1</sup> rendered by the Chamber on 29 November 2006 (“Decision of 29 November 2006”),

**NOTING** the Oral Decision of 4 July 2007<sup>2</sup> in which the Chamber granted an extension of time-limit until 10 September 2007 to Defence Counsel (“Defence”) for them to submit a response to the Motion,

**NOTING** the “Decision on Motion for Reconsideration, or in the Alternative, Request for Certification to Appeal the Chamber’s Decision of 3 April 2007 to Admit Evidence Regarding Witness Josip Praljak”<sup>3</sup> rendered by the Chamber on 16 May 2007 (“Decision of 16 May 2007”), in which the Chamber granted relief from Guideline 6 (a) (iv) set out in the Decision of 29 November 2006, for documents related to the Heliodrom camp,

**NOTING** the “Decision on the Prosecution Motion to be Relieved from Guideline 6 (a) (iv)”<sup>4</sup> rendered by the Chamber on 13 July 2007 (“Decision of 13 July 2007”) in which the Chamber refused to grant the Prosecution relief from Guideline 6 (a) (iv) for the admission of 1,000 documents,

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<sup>1</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision Amending the Decision on the Admission of Evidence of 13 July 2006, 29 November 2006.

<sup>2</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, 4 July 2007, Oral Decision extending the time-limit for the defence to respond to the prosecution motions for admission of 92 *bis* statements concerning Vareš, for the addition of documents to the 65 *ter* List and for admission of 398 documents about the HVO, Transcript in French (“T(F)”) pp. 20764-20767.

<sup>3</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision on Motion for Reconsideration, or in the Alternative, Request for Certification to Appeal the Chamber’s Decision of 3 April 2007 to Admit Evidence Regarding Witness Josip Praljak, 16 May 2007.

<sup>4</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision on the Prosecution Motion to Be Relieved from Guideline 6 (a) (iv), 13 July 2007.

**CONSIDERING** that the Chamber's decision in respect of the request for relief from Guideline 6 (a) (iv) will have a direct impact on the Chamber's assessment of the 398 pieces of documentary evidence tendered for admission and on the Defence's preparation of their response and that as a result it is necessary to deal with this Motion immediately,

**CONSIDERING** that the Prosecution submits that by Decision of 16 May 2007, the Chamber already granted relief from Guideline 6 (a) (iv) in respect of the documents concerning the Heliodrom camp and requests equivalent relief for the Motion requesting the admission of 398 documents,<sup>5</sup>

**CONSIDERING** that the Prosecution submits in particular that if the Chamber granted relief for the motion relating to the Heliodrom, it should also grant relief for the Motion requesting the admission of 398 documents, since these documents are essentially internal documents of the HVO coming from official sources,<sup>6</sup>

**CONSIDERING** that the Prosecution submits that collecting the information requested under Guideline 6 (a) (iv) requires much time and effort, and that it fears that the information and presentation requested will cast the evidence in a misleading and artificial light,<sup>7</sup>

**CONSIDERING** that in support of the Motion the Prosecution argues that the charts it disclosed on 4 September 2006 already contain the information requested under Guideline 6 (a) (iv) and that the time, efforts and resources that the Chamber would save it, should the relief be granted, could be spent on other aspects and elements of its case,<sup>8</sup>

**CONSIDERING** that the Chamber recalls first that pursuant to Guideline 6 (a) (iv), in the written motion under consideration the Prosecution must make reference to witnesses who have already appeared in the case and to the exhibits admitted dealing with the same paragraphs of the Indictment as the documents that it intends to tender by way of written motion,

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<sup>5</sup> Motion, paras. 20, 21, 22 and 23.

<sup>6</sup> Motion, para. 23.

<sup>7</sup> Motion, para. 24.

<sup>8</sup> Motion, para. 25.

**CONSIDERING** that the *raison d'être* for the insertion of Guideline 6 (a) (iv) is for the Chamber to consider, by way of a written motion, in particular the admission of documents whose content is corroborated by the testimony of witnesses who have already appeared before the Chamber and/or by documents which have already been admitted into evidence in the present case, and thus allow it to better assess the indicia of probative value of the documents requested for admission,<sup>9</sup>

**CONSIDERING** that in its Decision of 16 May 2007 the Chamber indeed granted relief in respect of the documents dealing with the administration and internal organisation of the Heliodrom, which the Prosecution was not able to introduce in court through Witness Josip Praljak due to a lack of time,

**CONSIDERING**, however, that contrary to the Prosecution's allegations, this decision from the Chamber was not linked to the source of the documents in question but mostly to the fact that, on the one hand, the Chamber considered that Witness Josip Praljak was the Prosecution witness best placed to testify on the administration and internal organisation of the Heliodrom and that, on the other hand, the Chamber had found that the Prosecution no longer planned to call other witnesses through whom it could have introduced these documents,<sup>10</sup>

**CONSIDERING** that, as a result, the Chamber held that it would have been superfluous to request the Prosecution to provide the information required under Guideline 6 (a) (iv), since the link between these documents and Witness Josip Praljak was evident,<sup>11</sup>

**CONSIDERING** that the objective of the charts of 4 September 2006 was to permit the pre-trial Judge and then the Chamber to have an overview and a specific idea

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<sup>9</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision Amending the Decision on the Admission of Evidence of 13 July 2006, 29 November 2006, p. 4; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision on Motion for Reconsideration, or in the Alternative, Request for Certification to Appeal the Chamber's Decision of 3 April 2007 to Admit Evidence Regarding Witness Josip Praljak," 16 May 2007, pp. 4 and 5; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision on the Prosecution Motion to be Relieved from Guideline 6 (a) (iv)," 13 July 2007, p. 3.

<sup>10</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision on Motion for Reconsideration, or in the Alternative, Request for Certification to Appeal the Chamber's Decision of 3 April 2007 to Admit Evidence Regarding Witness Josip Praljak," 16 May 2007, p. 6.

<sup>11</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision on Motion for Reconsideration, or in the Alternative, Request for Certification to Appeal the Chamber's Decision of 3 April 2007 to Admit Evidence Regarding Witness Josip Praljak," 16 May 2007, p. 6.

about all the evidence to be presented during the trial<sup>12</sup> and that, although they are useful, this chart has a specific and independent objective,<sup>13</sup>

**CONSIDERING** that the information which appears in the charts of 4 September 2006 is insufficient to rule on the written motions requesting the admission of documentary evidence,<sup>14</sup>

**CONSIDERING** that to date the written motions submitted by the Prosecution in accordance with Guideline 6 set out in the Decision of 29 November 2006, have satisfied the requirements under item (a) (iv), which has greatly assisted the Chamber in its assessment of the admissibility of the evidence submitted,

**CONSIDERING** that very recently, in its Decision of 13 July 2007, the Chamber reiterated how Guideline 6 (a) (iv) applies to motions for admission of documentary evidence,<sup>15</sup>

**CONSIDERING** that the fact that the Prosecution has not provided the information required by Guideline 6 (a) (iv) does not permit the Chamber to have sufficient information to assess the relevance and probative value of the documentary evidence whose admission is requested,

**FOR THE FOREGOING REASONS,**

**PURSUANT TO** Rules 89 (C) and 90 (F) of the Rules,

**DENIES** the Motion and invites the Prosecution to resubmit its request for admission of documentary evidence in accordance with Guideline 6 set out in the Decision of 29 November 2006.

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<sup>12</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, Order on Guidelines for Drawing Up the List of Witnesses and Exhibits, 30 November 2005, p. 3.

<sup>13</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision Amending the Decision on the Admission of Evidence Dated 13 July 2006, 29 November 2006, p. 5.

<sup>14</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision on Motion for Reconsideration, or in the Alternative, Request for Certification to Appeal the Chamber's Decision of 3 April 2007 to Admit Evidence Regarding Witness Josip Praljak," 16 May 2007, p. 5.

<sup>15</sup> *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision on the Prosecution Motion to be Relieved from Guideline 6 (a) (iv), 13 July 2007.

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

*/signed/*

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Judge Jean-Claude Antonetti  
Presiding Judge

Done this eighth day of August 2007

At The Hague

The Netherlands

**[Seal of the Tribunal]**