



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: 9 January 2008
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

Order of: 9 January 2008

THE PROSECUTOR

v.

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

PUBLIC

ORDER ADMITTING EVIDENCE REGARDING WITNESS EWA TABEAU

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”);

CONSIDERING that the Office of the Prosecutor (“Prosecution”) requested the admission of 4 exhibits¹ while Counsel for the Accused Prlić (“Prlić Defence”) and Counsel for the Accused Praljak (“Praljak Defence”) each requested the admission of 1 exhibit² related to the testimony of Witness Ewa Tabeau (“Proposed Exhibits”) who appeared on 23 and 30 August and 3 September 2007,

CONSIDERING that the parties did not raise any objections against the admission of the Proposed Exhibits,

CONSIDERING that the Chamber finds that Exhibits P 09835, P 09836 and P 09837 are expert reports written by Ewa Tabeau and that they were disclosed in accordance with 94 *bis* of the Rules of Procedure and Evidence (“Rules”),

CONSIDERING that on 17 August 2007 the Chamber authorised Ewa Tabeau to testify as an expert in its “Decision Regarding the Submission of Three Expert Reports of Ewa Tabeau under Rule 94 *bis* (A) and (B)”,

CONSIDERING that the Chamber has examined each of the Proposed Exhibits on the basis of the admissibility criteria set out in its Decision of 13 July 2006 on the admission of evidence (“Decision of 13 July 2006”),

CONSIDERING that the “power point” presentation, which does not have a specific number, is not part of the 65 *ter* List,³ was not disclosed in accordance with Rule 94 *bis* A) and B) of the Rules, was only disclosed to the Parties and to the Chamber during the appearance of

¹ IC 00650.

² Respectively IC 00651 and IC 00652.

³ “Prosecution’s Rule 65 *ter* List of Exhibits”, filed 19 January 2006 and amended by the Decision on Prosecution Motion to Add Exhibits to Its Exhibit List of 19 April 2007, the Decision on the Exhibit List of 4 May 2007, the Decision on List of Exhibits of 1 June 2007, the Oral Decision of 7 June 2007, French transcript p. 19679, the Decision on List of Exhibits of 7 September 2007, the Decision on Prosecution Motion to Add to the Exhibits List of 11 September 2007 and the Decision on the Prosecution Motion to Add Exhibits to Its Exhibit List and for Admission of Such Exhibits (28 Documents from the Presidential Office of the Republic of Croatia) 22 October 2007; (“65 *ter* List”).

Witness Ewa Tabeau, and in fact is only a summary of the three expert reports⁴ of Witness Ewa Tabeau,

CONSIDERING that the Chamber decides to admit into evidence the exhibits indicated “Admitted” in the Annex attached to this decision since they were put to Witness Ewa Tabeau and bear sufficient indicia of relevance, probative value and reliability,

CONSIDERING that the Chamber decides not to admit into evidence the exhibits indicated “Not admitted” in the Annex attached to this decision, since they fail to comply with the instructions of the Decision 13 July 2006,

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 89 of the Rules,

GRANTS the request for admission of the Prlić Defence,

PARTIALLY GRANTS the request for admission of the Prosecution,

DECIDES that there is cause to admit the exhibits indicated “Admitted” in the Annex attached to this decision, **AND**

DENIES the request of the Praljak Defence and, additionally, the request of the Prosecution, for the reasons set out in the Annex attached to this decision,

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

⁴ P 09835, P 09836 and P 09837.

Annex

Exhibit Number	Party Proposing Admission of the Exhibit	Admitted/Not Admitted/Marked for Identification (MFI)
P 09835	Prosecution	Admitted
P 09836	Prosecution	Admitted
P 09837	Prosecution	Admitted
“Power point” Presentation used during the examination of Witness Ewa Tabeau, in particular pages 8, 9, 25, 26, 27 and 30.	Prosecution	Not admitted (reason: document not part of the 65 <i>ter</i> List, not disclosed under Rule 94 <i>bis</i> (A) and (B) of the Rules, not disclosed to the parties and to the Chamber prior to the appearance of the witness and which is only a summary of Exhibits P 09835, P 09836 and P 09837)
1D 01658	Prlić Defence	Admitted
3D 01065 pages 3D26-1857 and 3D26-1861	Praljak Defence	Not admitted (witness unable to provide the Chamber with information about the authenticity, relevance and probative value of the document in court.)