



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: 29 January 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

Order of: 29 January 2009

THE PROSECUTOR

v.

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

PUBLIC

**ORDER ADMITTING EVIDENCE REGARDING EXPERT WITNESS
SVETLANA RADOVANOVIĆ**

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”);

NOTING the request for admission of six exhibits presented by Counsel for the Accused Prlić (“Prlić Defence”)¹; the request for admission of 12 exhibits presented by the Office of the Prosecutor (“Prosecution”)² and the request for admission of one exhibit presented by Counsel for the Accused Praljak (“Praljak Defence”)³ related to the testimony of Svetlana Radovanović (“Proposed Exhibits”) who appeared from 24 to 26 November 2008,

NOTING the objections raised by the Prosecution to the five Proposed Exhibits from the Prlić Defence⁴ and to the Proposed Exhibit from the Praljak Defence;⁵ the objections raised by the Prlić Defence to five Proposed Exhibits from the Prosecution⁶ and the response from the Prosecution to the objections raised by the Prlić Defence,⁷

NOTING the Order Requesting Additional Observations from the Parties of 16 December 2008 (“Order of 16 December 2008”) in which the Chamber invited the Defence teams to present any additional objections to the Proposed Exhibits from the Prosecution in this case (“Additional Objections”) on the basis of the Decision on Presentation of Documents by the Prosecution In Cross-examination of Defence Witnesses of 27 November 2008 (“Decision of 27 November 2008”) and invited the Prosecution to file a response to any Additional Objections,⁸

¹ “Jadranko Prlić’s Motion for the Admission of Exhibits Tendered through Witness Svetlana Radovanović”, filed confidentially on 27 November 2008 (“Prlić Defence Motion”).

² “Prosecution Motion for Admission of Exhibits Tendered through Witness Svetlana Radovanović”, filed confidentially on 3 December 2008 (“Prosecution Motion”).

³ “Slobodan Praljak’s Request for Admission of Exhibits Tendered through Witness Svetlana Radovanović”, 28 November 2008 (“Praljak Defence Motion”).

⁴ “Prosecution Response to Jadranko Prlić’s Motion for the Admission of Exhibits Tendered through Witness Svetlana Radovanović”, 2 December 2008.

⁵ Prosecution Response to the Slobodan Praljak’s Request for Admission of Exhibit Tendered through Witness Svetlana Radovanović”, 2 December 2008.

⁶ “Jadranko Prlić’s Response to Prosecution Motion for Admission of Exhibits Tendered through Witness Svetlana Radovanović, dated 3 December 2008”, filed confidentially on 3 December 2008 (“Prlić Defence Response”).

⁷ “Prosecution Response to Jadranko Prlić’s Response to Prosecution Motion for Admission of Exhibits Tendered through Witness Svetlana Radovanović, dated 3 December 2008”, 4 December 2008 (“Prosecution Reply”).

⁸ Order of 16 December 2008, p. 3.

NOTING the observations presented by the Prosecution concerning the Order of 16 December 2008, in which it essentially argues that it put the prosecution evidence to the defence witnesses in court in accordance with the decisions and practices followed by the Chamber prior to 27 November 2008 and that it is no longer able to present these exhibits to them differently, or to take into account different or additional factors to present them,⁹

CONSIDERING that the Chamber first finds that the Defence teams did not raise Additional Objections on the basis of the Decision of 27 November 2008 to contest the Proposed Exhibits from the Prosecution,

CONSIDERING that the Parties were informed by an email dated 26 November 2008 of the deadlines by which to file their requests for admission of evidence relating to Witness Svetlana Radovanović, that is 1 December 2008 for the requests for admission of evidence, 2 December 2008 for the objections and 3 December 2008 for any responses to objections,

CONSIDERING that the Chamber notes that the Prosecution Motion and the Prlić Defence Response were filed on 3 December 2008 and that the Prosecution Reply was filed on 4 December 2008, that is after the deadline set by the Chamber,

CONSIDERING however that the Chamber has examined the explanations given by these two parties to justify their non-compliance with the deadlines, and decides to exceptionally allow these late filings,

CONSIDERING that the Chamber notes that of the Proposed Exhibits, Exhibit 1D 03110 is an expert report prepared by Witness Svetlana Radovanović that was disclosed pursuant to Rule 94 *bis* of the Rules of Procedure and Evidence (“Rules”) on 20 October 2008,

CONSIDERING that the Chamber has examined each of the Proposed Exhibits based on the admissibility criteria set out in the Decision on the Admission of Evidence rendered by the Chamber on 13 July 2006 (“Decision of 13 July 2006”), and

⁹ Prosecution Observations Concerning the Trial Chamber’s 16 December 2008 Order Requesting Additional Observations, 8 January 2009, p. 2, paras. 4 and 6.

in the Decision Adopting Guidelines for the Presentation of Defence Evidence rendered by the Chamber on 24 April 2008 (“Decision of 24 April 2008”),¹⁰

CONSIDERING that the Chamber decides to admit into evidence the Proposed Exhibits marked “admitted” in the Annex attached to this decision as they were put to Witness Svetlana Radovanović and present sufficient indicia of relevance, probative value and reliability,

CONSIDERING that the Chamber decides not to admit into evidence the Proposed Exhibits marked “not admitted” in the annex attached to this decision as they fail to satisfy the requirements set out in Decisions of 13 July 2006 and 24 April 2008,

¹⁰ Guideline 8 on the admission of documentary evidence through a witness.

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 89 (C) of the Rules,

AUTHORISES the late filing of the Prosecution Motion, the Prlić Defence Response and the Prosecution Reply,

GRANTS the Prlić Defence Motion,

PARTIALLY GRANTS the Prosecution Motion,

DECIDES there is good reason to admit into evidence the Proposed Exhibits marked “admitted” in the Annex attached to this decision, **AND**

DENIES the Praljak Defence Motion and denies in all other respects the Prosecution Motion for the reasons set out in the Annex attached to this decision,

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-ninth day of January 2009

At The Hague

The Netherlands

[Seal of the Tribunal]

Annex

Exhibit Number (Preferably in Numerical Order)	Party Proposing Admission of Exhibits	Admitted/Not Admitted/Marked for identification (MFI)
1D 03099	Prlić Defence	Admitted
1D 03100	Prlić Defence	Admitted
1D 03101	Prlić Defence	Admitted
1D 03102	Prlić Defence	Admitted
1D 03103	Prlić Defence	Admitted
1D 03110	Prlić Defence	Admitted
3D 03259	Praljak Defence	Not admitted: the witness could not comment on the reliability, relevance and probative value of this exhibit.
P 10724	Prosecution	Admitted
P 10727	Prosecution	Admitted
P 10729	Prosecution	Admitted
P 10730	Prosecution	Admitted
P 10731	Prosecution	Admitted
P 10734	Prosecution	Admitted
P 10737	Prosecution	Admitted
P 10738	Prosecution	Admitted
P 10739	Prosecution	Admitted under seal
P 10752	Prosecution	Not admitted : the document is only a summary of Exhibits P 09835, P 09836 and P 09837 already admitted by the Chamber on 9 January 2008.
P 10758	Prosecution	Admitted
P 10761	Prosecution	Admitted