



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: 15 April 2010
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

Registrar: Mr John Hocking

Order of: 15 April 2010

THE PROSECUTOR

v.

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

PUBLIC

ORDER TO ADMIT EVIDENCE REGARDING WITNESS NO

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 the Counsel for the Accused Valentin Ćorić (“Ćorić Defence”),¹ the request for admission of five exhibits presented by the Counsel for the Accused Bruno Stojić (“Stojić Defence”),² and the request for admission of eight exhibits presented by the Office of the Prosecutor (“Prosecution”)³ (“Proposed Exhibits”), all of which relate to the testimony of Witness NO (“Witness”), who appeared on 22-23 March 2010 pursuant to Rule 92 *ter* of the Rules of Procedure and Evidence (“Rules”),

NOTING the objection raised by the Stojić Defence to the Prosecution’s Proposed Exhibit P 08548,⁴

NOTING the “Decision on Presentation of Documents by the Prosecution in Cross-Examination of Defence Witnesses”, rendered publicly by the Chamber on 27 November 2008 (“Decision of 27 November 2008”),

NOTING the “Decision on the Interlocutory Appeal Against the Trial Chamber’s Decision on Presentation of Documents by the Prosecution in Cross-Examination of Defence Witnesses”, rendered publicly by the Appeals Chamber on 26 February 2009 (“Decision of 26 February 2009”), by which the Appeals Chamber upheld the Decision of 27 November 2008,⁵

CONSIDERING that the Chamber observes that the Prosecution is putting forward that it presented Proposed Exhibits P07754, P 08261 and P 11223 with a view to undermining the credibility of the Witness and that the Prosecution is thus requesting that they be admitted on these grounds,⁶

¹ IC 01221.

² IC 01222.

³ IC 01224.

⁴ IC 01226.

⁵ Decision of 26 February 2009, para. 29.

⁶ IC 01224.

CONSIDERING that the Chamber has examined each of the Proposed Exhibits on the basis of criteria of admissibility defined in the “Decision on Admission of Evidence”, rendered publicly by the Chamber on 13 July 2006 (“Decision of 13 July 2006”) and in the “Decision Adopting Guidelines for the Presentation of Defence Evidence”, rendered publicly by the Chamber on 24 April 2008 (“Decision of 24 April 2008”),⁷

CONSIDERING that the Chamber is deciding to admit into evidence the Proposed Exhibits marked “admitted” in the Annex to this Order since they were presented to Witness NO in the hearing and present sufficient indicia of relevance, probative value and reliability,

CONSIDERING more particularly that the Chamber is deciding to admit Proposed Exhibits P 07754, P 08261 and P 11223 only insofar as they go to refute the credibility of the Witness,

CONSIDERING that the Chamber is deciding to not admit into evidence the Proposed Exhibits marked “not admitted” in the Annex to this decision because they do not comply with the instructions handed down in the Decisions of 13 July 2006 and 24 April 2008, for the reasons set forth in the Annex to this Order.

⁷ Guideline No. 8: The Admission of Documentary Evidence through a Witness.

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 89 of the Rules,

GRANTS the request for admission of the Stojić Defence,

PARTIALLY GRANTS the requests for admission of the Ćorić Defence and the Prosecution,

DECIDES that there are grounds for admitting into evidence the exhibits marked “admitted” in the Annex to this decision,

DECIDES more particularly that there are grounds for admitting into evidence Proposed Exhibits P 07754, P 08621 and P 11223, only insofar as they go to cast doubt upon the credibility of the Witness NO,

AND

DENIES in all the other respects the requests of the Ćorić Defence and the Prosecution for the reasons stated 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 fifteenth day of April 2010

At The Hague

The Netherlands

[Seal of the Tribunal]

Annex

Exhibit Number	Party Proposing Admission of the Exhibit	Admitted/Not Admitted/Marked for Identification (MFI)
P 03336	Ćorić Defence	Admitted.
P 03929	Ćorić Defence	Admitted.
P 04774	Ćorić Defence	Admitted.
P 05559	Ćorić Defence	Admitted.
5D 05110 under seal	Ćorić Defence	Admitted.
P 03141	Ćorić Defence	Not Admitted. (The document does not appear on the 65 <i>ter</i> List of the Ćorić Defence. The Ćorić Defence, which merely explained in its 01221 IC List that it presented this document during re-examination, nevertheless did not clarify, either at the hearing, or in its request, to which new issue raised in cross-examination this document pertained, and thereby failed to justify its inability to note this in advance on its 65 <i>ter</i> List.) ⁸
5D 05074	Stojić Defence	Admitted.
5D 05075	Stojić Defence	Admitted.
5D 05077	Stojić Defence	Admitted.
5D 05079	Stojić Defence	Admitted.
5D 05080	Stojić Defence	Admitted.
P 03302	Prosecution	Admitted.
P 07754	Prosecution	Admitted only insofar as it goes to refute the credibility of Witness NO.
P 08261	Prosecution	Admitted only insofar as it goes to refute the credibility of Witness NO.
P 08548	Prosecution	Not Admitted. (the Prosecution did not specify which pages in an 88-page document it wishes to see admitted.)
P 08550	Prosecution	Admitted.
P 11220	Prosecution	Admitted.
P 11223	Prosecution	Admitted only insofar as it

⁸ See also the "Order to Admit Evidence Relating to Witness Vinko Marić", rendered publicly by the Chamber on 22 March 2010, pp. 5-6.

		goes to refute the credibility of Witness NO.
3D 01747	Prosecution	Admitted.