



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: 4 May 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: 4 May 2007

THE PROSECUTOR

v.

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

DECISION ON THE EXHIBIT LIST

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Daryl Mundis

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”),

BEING SEIZED of the “Prosecution Motion to Add Two New Exhibits to Rule 65 *ter* Exhibit List (“Exhibit List”)", filed by the Office of the Prosecutor (“Prosecution”) on 12 April 2007 (“Motion”), in which the Prosecution requests the Chamber’s leave to add two documents to its Exhibit List relating to the destruction of the *Stari Most* (Old Bridge) in Mostar (“Proposed Exhibits”),

CONSIDERING that the Defence has not replied to the Motion,

CONSIDERING that the Prosecution concedes to have had the proposed Exhibits since 27 November 2000 and that due to an oversight these two documents were not included on the Exhibit List filed on 19 January 2006 pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“Rules”),

CONSIDERING that the Prosecution maintains that the Proposed Exhibits are relevant with regard to paragraph 116 of the Amended Indictment,

CONSIDERING that the Prosecution intends to tender the two documents through a witness who will appear before the Chamber on 16 and 17 May 2007,

CONSIDERING that the Prosecution holds that the probative value of the Proposed Exhibits outweighs by far any potential prejudice that their late disclosure may cause to the Defence,

CONSIDERING that the Prosecution maintains that the Proposed Exhibits corroborate the evidence on the destruction of the Old Bridge in Mostar which has already been admitted,

CONSIDERING that the Prosecution maintains that it is in the interests of justice to add the Proposed Exhibits to the Exhibit List,

CONSIDERING that in order to grant a motion to add documents to an exhibit list filed by the Prosecution pursuant to Rule 65 *ter* of the Rules, the Chamber must take care that that rights of the Defence are respected by ensuring that the Defence is informed about any addition of documents sufficiently in advance and that this does not obstruct the Defence in the preparation of its case,¹

CONSIDERING that the Chamber can take into consideration other elements that are in favour of or against the admission of documents to an exhibit list, such as their relation to the Indictment or any other valid reason likely to justify amendments to an exhibit list,²

¹ See, for instance, *Prosecutor v. Martić*, case no. IT-95-11-PT, Decision on Prosecution Motion to Amend Its Rule 65 *ter* Exhibit List, 15 December 2005, p. 3; *Prosecutor v. Popović et al.*, case no. IT-05-88-T, (Decision on Prosecution Motion for leave to Amend the Rule 65 *ter* Exhibit List), 6 December 2006 (“Popović Decision”), p. 7; *Prosecutor v. Dragomir Milošević*, case no. IT-98-29/1, Decision on Prosecution Motion to Amend Its Rule 65 *ter* Exhibit List”, 21 December 2006 (“Milošević Decision”), p. 2.

² See, for instance, the Popović Decision, p. 8; *Prosecutor v. Halilović*, case no. IT-01-48-T, Decision on Prosecution’s Application for Leave to Vary Its Exhibit List Pursuant to Rule 65 *ter* (E)(iii), 14 February 2005, p. 3 (“Halilović Decision”); Milošević Decision, p. 2.

CONSIDERING, moreover, that pursuant to Rule 89(C) of the Rules, the Chamber may admit any relevant evidence which it deems to have probative value,

CONSIDERING that the Chamber notes that the two Proposed Exhibits were submitted to the Defence on 12 April 2007,

CONSIDERING that the Chamber deems that the late addition of the two Proposed Exhibits to the 65 *ter* Exhibit List does not prejudice the rights of the Accused to prepare their defence inasmuch as these documents are consistent with the Prosecution's allegations presented through documents that have already been admitted to the 65 *ter* Exhibit Lists with regard to paragraph 116 of the Indictment,

CONSIDERING, moreover, that the Chamber notes that the Proposed Exhibits are pertinent and have a certain probative value, and holds that it is in the interests of justice to add them to the Exhibit List,

FOR THE FOREGOING REASONS,

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

GRANTS the Motion.

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

/signed/

Judge Jean-Claude Antonetti
Presiding Judge

Done this fourth day of May 2007
At The Hague, The Netherlands

[Seal of the Tribunal]