



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: 12 March 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

**Decision of:** 12 March 2010

**THE PROSECUTOR**

v.

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

***PUBLIC***

**DECISION ON PROSECUTION REQUEST FOR RECONSIDERATION AND  
CLARIFICATION OF *L'ORDONNANCE PORTANT ADMISSION  
D'ÉLÉMENTS DE PREUVE RELATIFS AU TÉMOIGNAGE DE SLOBODAN  
PRALJAK* (P 09533, P 10936, 3D 00374)**

**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”),

**SEIZED** of the “Prosecution Request for Reconsideration and Clarification of the Trial Chamber’s *Ordonnance portant sur l’admission d’éléments de preuve au témoignage de Slobodan Praljak*’ (Exhibits P 09533, P 10936, 3D 00374)”, presented by the Office of the Prosecutor (“Prosecution”) publicly on 22 February 2010 (“Request”), in which the Prosecution requests that the Chamber, first of all, reconsider its decision not to admit into evidence Exhibits P 09533 and P 10936 and, secondly, clarify the page numbers of Exhibit 3D 00374 admitted into evidence by way of the “Order to Admit Evidence Relating to the Testimony of Slobodan Praljak”,<sup>1</sup>

**NOTING** “Slobodan Praljak’s Response to Prosecution’s Request for Reconsideration and Clarification of the Trial Chamber’s *Ordonnance portant sur l’admission d’éléments de preuve au témoignage de Slobodan Praljak*’ (Exhibits P 09533, P 10936, 3D 00374)”, filed publicly on 1 March 2010 by Counsel for the Accused Slobodan Praljak (“Praljak Defence”), in which the Praljak Defence objects to the admission of Exhibits P 09533 and P 10936,

**NOTING** the “Order to Admit Evidence Relating to the Testimony of Slobodan Praljak”, rendered publicly on 15 February 2010 (“Order of 15 February 2010”), in which the Chamber notably decided not to admit into evidence Exhibits P 09533 and P 10936,

**NOTING** the “Decision Regarding Requests Filed by the Parties for Reconsideration of Decisions by the Chamber”, rendered publicly on 26 March 2009 (“Decision of 26 March 2009”), in which the Chamber placed restrictions on requests for reconsideration filed by the parties and recalled that such requests should remain the exception and not the rule,

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<sup>1</sup> Request, pp. 2-4.

**CONSIDERING** that the other Defence teams have not filed a response to the Request,

**CONSIDERING** that a Trial Chamber has the inherent power to reconsider its own decisions and that it may grant a request for reconsideration if the requesting party satisfies the Chamber of the existence of a clear error in the reasoning of the impugned decision or that particular circumstances, which may be new facts or new arguments,<sup>2</sup> justify its reconsideration in order to avoid an injustice,<sup>3</sup>

**CONSIDERING** that the Chamber recalls the Decision of 26 March 2009, in which, in order to ensure the proper administration of the trial, it sets out the framework within which requests for reconsideration should be presented,

**CONSIDERING**, with regard to Exhibit P 09533, that the Chamber reminds the Prosecution that the latter committed a technical error by failing to upload the translation of Exhibit P 09533 onto the *ecourt* system as required by Guideline No. 8 of the “Decision Adopting Guidelines for the Presentation of Defence Evidence” (“Decision of 24 April 2008”) and reiterates this point in its Decision of 26 March 2009;<sup>4</sup> that, in accordance with the Decision of 26 March 2009, such a request for reconsideration is not admissible;<sup>5</sup> that, consequently, it is appropriate to deny the Request with regard to the rejection of Exhibit P 09533,

**CONSIDERING** that secondly, with regard to Exhibit P 10936, the Chamber notes the explanations provided by the Prosecution and the arguments put forward by the Praljak Defence in its Response; that it notes, however, that the explanations and the documents, relating to the authenticity of the said Exhibit and recently provided by the Prosecution in support of its Request, were disclosed outside of the time limit; that in the Chamber's opinion, the Prosecution should have provided this information at the time it filed its IC 01041 List; that the Prosecution has thus not demonstrated that

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<sup>2</sup> *The Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, “Decision on Defence’s Request for Reconsideration”, 16 July 2004, pp. 3 and 4, citing *The Prosecutor v. Laurent Semanza*, Case No. ICTR-97-20-T, Trial Chamber III, “Decision on Defence Motion to Reconsider Decision Denying Leave to Call Rejoinder Witness”, 9 May 2002, para. 8.

<sup>3</sup> *The Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, “Decision on Defence’s Request for Reconsideration”, 16 July 2004, pp. 3 and 4, citing in particular *The Prosecution v. Zdravko Mucić et al.*, Case No. IT-96-21A bis, “Judgement on Sentence Appeal”, 8 April 2003, para. 49; *The Prosecutor v. Popović et al.*, Case No. IT-05-88-T, “Decision on Defence Motion for Certification to Appeal Decision Admitting Written Evidence Pursuant to Rule 92 bis”, 19 October 2006, p. 4.

<sup>4</sup> Decision of 26 March 2009, p. 3, footnote 7; Decision of 24 April 2008, Guideline No. 8.

the Chamber committed a discernible error in the Order of 15 February 2010 and that, consequently it is appropriate to deny the Request with regard to the rejection of Exhibit P 10936,

**CONSIDERING** that, finally, the Chamber notes the Prosecution request for clarification concerning the *ecourt* page numbers of Exhibit 3D 00374 admitted by way of the Order of 15 February 2010 and requests that the Chamber confirm that *ecourt* pages 59 in English and 50 in BCS which were admitted correspond in full to the pages of the attached Exhibit 3D16-0129 in English and Exhibit 3D16-0050 in BCS uploaded onto the *ecourt* system,

**CONSIDERING** that the Chamber recalls that, by way of the Order of 15 February 2010, it admitted *ecourt* page 59 of the English version (3D16-0129) and page 50 of the BCS version (3D16-0050) of Exhibit 3D 00374 uploaded onto the *ecourt* system,<sup>6</sup>

**CONSIDERING** that the Chamber is surprised by the request for clarification since the Chamber has always indicated the *ecourt* page number of documents admitted into evidence in its orders and decisions and that it is the responsibility of the parties, in accordance with the Chamber's consistent practice, to specify in their respective IC Lists the *ecourt* page numbers of the documents sought for admission;<sup>7</sup> that the Chamber, therefore, considers the Request for clarification to be moot,

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<sup>5</sup> Decision of 26 March 2009, p. 3 and footnote 7.

<sup>6</sup> Order of 15 February 2010, pp. 3 and 10, footnote 29; Annex to the Order of 15 February 2010, p. 32.

<sup>7</sup> Order of 15 February 2010, pp. 3 and 10, footnote 29; Decision of 26 March 2009, p. 3, footnote 7; Decision of 24 April 2008, Guideline No. 8, para. 30. The Chamber considers it necessary, nevertheless, to attach in the Annex to this decision, as a reminder, *ecourt* page 59 of the English version of Exhibit 3D 00374 admitted by way of the Order of 15 February 2010 as well as *ecourt* page 50 of the BCS version of the said Exhibit which bear the *ecourt* numbers, the ERN numbers and the numbers corresponding to the pages in the handwritten version of the document.

**FOR THE FOREGOING REASONS,**

**PURSUANT TO** Rules 54 and 89 of the Rules of Procedure and Evidence,

**DENIES** the Request for reconsideration of the Order of 15 February 2010 filed by the Prosecution for the reasons set forth in this decision, **AND**

**DISMISSES** as moot the Request for clarification of the Order of 15 February 2010

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

*/signed/*

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Jean-Claude Antonetti  
Presiding Judge

Done this twelfth day of March 2010  
At The Hague  
The Netherlands

[Seal of the Tribunal]

**ANNEX**

**IDENTIFICATION OF THE NUMBERS ON ECOURT PAGE 59  
OF THE ENGLISH VERSION OF EXHIBIT 3D 00374 ADMITTED  
BY WAY OF THE ORDER OF 15 FEBRUARY 2010**

3D16-0219 (ERN Number)

**59/70** (Ecourt page number)

*page 49*

POSITION OF THE TANK THAT WAS SHELLING THE OLD  
BRIDGE

*Captions for the image below:*

Distance of the tank from ABiH positions

Area controlled by ABiH

3D16-0129

49 (Page number of the handwritten English version of 3D 00374)

**IDENTIFICATION OF THE NUMBERS ON ECOURT PAGE 50  
OF THE BCS VERSION OF EXHIBIT 3D 00374 ADMITTED BY  
WAY OF THE ORDER OF 15 FEBRUARY 2010**

3D16-0050 (ERN Number)

50/70 (Ecourt page number)

POSITION OF THE TANK THAT WAS SHELLING THE OLD  
BRIDGE

*Captions for the image below:*

Distance of the tank from ABiH positions

Area controlled by ABiH

/see original for photographs/

3D16-0050

49 (Page number of the handwritten BCS version of 3D 00374)