



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 : 17 May 2013
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: 17 May 2013

THE PROSECUTOR

v.

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

PUBLIC

DECISION ON MFI STATUS OF TWO PROSECUTION EXHIBITS

The Office of the Prosecutor:

M. 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
Ms Nika Pinter and Ms Natacha Fauveau-Ivanović for Slobodan Praljak
Ms Vesna Alaburić and Mr Guénaél Mettraux 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”),

PROPRIO MOTU

NOTING the “Order to Admit Evidence Relative to Witness Ismet Poljarević”, rendered as a public document by the Chamber on 11 January 2007 (“Decision of 11 January 2007”), in which the Chamber decided to retain the “marked for identification” status of Exhibit P 01958,

NOTING the “Decision on the Prosecution Motion for Admission of Evidence (Heliodrom Camp)”, rendered as a public document by the Chamber on 5 December 2007 (“Decision of 5 December 2007”), in which the Chamber decided to defer its decision regarding the admission of Exhibit P 01014,

NOTING the “Order Concerning Status of Exhibits Marked for Identification”, rendered as a public document by the Chamber on 17 January 2008 (“Decision of 17 January 2008”), in which the Chamber decided to retain the “marked for identification” status of Exhibit P 01958,

CONSIDERING that in the Decision of 5 December 2007, the Chamber deemed that Exhibit P 01014 lacked sufficient indicia of reliability to be admitted since it was a document attached to a main document that was not provided to the Chamber; that it had neither a date, nor a signature, a record number or stamp, that the Prosecution did not provide any information which allows for the author of the report to be identified and that, consequently, the Chamber decided to defer a decision on its admission until the Prosecution presented the main document to which Exhibit P 01014 was attached,¹

CONSIDERING that the Prosecution had not presented the main document to which Exhibit P 01014 was attached by the end of its case and, consequently, that the Chamber did not take this document into account during its deliberation,

¹ Decision of 5 December 2007, p. 5.

CONSIDERING that in the Order of 11 January 2007, the Chamber decided to defer its decision to admit Exhibit P 01958 since, if it were established that the statement of Witness Ismet Poljarević, contained in this exhibit, was obtained while this individual was detained by the HVO and was the result of torture, it would be inadmissible,²

CONSIDERING that in the Decision of 17 January 2008, the Chamber preserved the “marked for identification” status of Exhibit P 01958 until Judgement deliberations,³

CONSIDERING that the Chamber could not, during deliberations and in light of all the evidence, determine whether the statement contained in Exhibit P 01958 had been obtained through torture or not and, consequently, decided not to take it into account in the interest of justice.

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 89 of the Rules of Procedure and Evidence,

DENIES the motion to admit Exhibits P 01014 and P 01958.

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

² Order of 11 January 2007, p. 2.

³ Decision of 17 January 2008, p. 12.

/signed/

Jean-Claude Antonetti

Presiding Judge

Done this seventeenth day of May 2013
The Hague

The Netherlands

[Seal of the Tribunal]