



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: 3 April 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

Order of: 3 April 2007

THE PROSECUTOR

v.

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

ORDER TO ADMIT EVIDENCE REGARDING WITNESS JOSIP PRALJAK

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 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 that at the hearing of 5 March 2007, the Office of the Prosecutor (“Prosecution”) requested the admission of 1033 Exhibits¹ while Counsel for the Accused Stojić (“Stojić Defence”), Counsel for the Accused Praljak (“Praljak Defence”), Counsel for the Accused Ćorić (“Ćorić Defence”) and Counsel for the Accused Pušić (“Pušić Defence”) requested the admission of 7,² 1,³ 32⁴ and 3⁵ exhibits, respectively, relating to the testimony of Witness Josip Praljak,⁶

NOTING that at the hearing of 6 March 2007, Counsel for the Accused Petković (“Petković Defence”) raised their objections against the admission of Exhibit P 06133 (“Petković Objections”),⁷

NOTING the partly confidential objection against the admission of Exhibit P 06937, filed on 6 March 2007 by the Praljak Defence (“Praljak Objections”),

NOTING the request to order the Prosecution to file the original version of Exhibit P 06937, filed on 6 March 2007 by the Praljak Defence (“Praljak Motion”),

NOTING the Prosecution Response to Defence Exhibits, filed on 7 March 2007 (“Prosecution Response”),

NOTING the Request for Leave and Reply to the Petković and Praljak Objections, filed on 8 March 2007 by the Prosecution (“Prosecution Request for Leave to Reply”),

NOTING the Request for Leave to Reply and Reply to the Prosecution Request for Leave to Reply, filed on 12 March 2007 by the Praljak Defence (“Praljak Request for Leave to Reply”),

¹ IC 00454, IC 00455, IC 00456, IC 00457, IC 00458, IC 00459, IC 00460, IC 00461, IC 00462, IC 00463, IC 00464, IC 00465, IC 00466, IC 00467.

² IC 00468.

³ IC 00469.

⁴ IC 00470.

⁵ IC 00471.

⁶ Transcript in French (“T(F)”) pp. 15015-15016.

⁷ T(F) p. 15107.

CONSIDERING *in limine* that the Chamber recalls its Decision of 13 December 2006 in which it adopted a single and mandatory procedure regarding the admission into the record of documents presented at the hearing,⁸

CONSIDERING that the Decision of 13 December 2006 does not offer the Parties the possibility to file a reply to the responses objecting to the admission of documents,

CONSIDERING nevertheless that, in its Decision of 28 April 2006, the Chamber gave the Parties the option of filing replies should compelling circumstances arise, that the Party wishing to make such a reply must first seek the leave of the Chamber to do so and, finally, that the requesting party must specify why the circumstances are sufficiently compelling for the Chamber to grant its request,⁹

CONSIDERING that in this case both the Prosecution and Praljak Requests for Leave to Reply fail to first seek the leave of the Chamber to file a reply and fail to specify why the circumstances are sufficiently compelling for the Chamber to grant leave to file the Requests for Leave to Reply,

CONSIDERING that the Chamber consequently denies the Prosecution Request for Leave to Reply and the Praljak Request for Leave to Reply on the ground that they are inadmissible,

CONSIDERING that the Chamber will now examine the admissibility of the Proposed Exhibits,

CONSIDERING that the Chamber first finds that of the 1033 documents the Prosecution proposes for admission, 48 were discussed by and presented through Witness Josip Praljak in court,

⁸ Decision on the Admission into the Record of Documents Presented at the Hearing, 13 December 2006 (“Decision of 13 December 2006”).

⁹ Revised Version of the Decision Adopting Guidelines on Conduct of Trial proceedings, 28 April 2006 (“Decision of 28 April 2006”).

CONSIDERING that, outside of court, Witness Josip Praljak went through the additional documents the Prosecution proposes for admission, and confirmed their authenticity and relevance during his appearance before the Chamber,¹⁰

CONSIDERING nonetheless that the above-mentioned documents were not discussed by Witness Josip Praljak in court,

CONSIDERING that the Chamber responded to an identical Prosecution request during the appearance of Witness Christopher Beese and that the Chamber ruled on the Prosecution's request at the time on the basis of its Decision on Admission of Evidence, rendered on 13 July 2006 ("Decision of 13 July 2006"),

CONSIDERING that, in that Decision, the Chamber set forth the principle according to which a document must be tendered through a witness who can attest to its reliability, relevance, and probative value,

CONSIDERING that the Chamber does not consider it useful to repeat the comprehensive rationale of that Decision which supports this principle and consequently it refers to the reasons set forth therein,

CONSIDERING that the Chamber also provided for a departure from this principle and left open the possibility that it could be seized of written motions requesting the admission of documents that a witness was not able to inform the Chamber about in court, in particular because of the limited time allocated to the Prosecution to examine that witness,¹¹

CONSIDERING that in accordance with the Decision of 29 November 2006, any such written motion must provide sufficient reasons and must respect the conditions set out in Guideline 6, failing which it may be denied,

CONSIDERING that in this case the Prosecution request for admission of so many documents, when in fact less than 5 % of said documents were discussed in court, betrays the principle set forth in the Decisions of 13 July and 29 November 2006,

¹⁰ T(F) pp. 14809-14815.

¹¹ Decision Amending the Decision on the Admission of Evidence dated 13 July 2006, 29 November 2006 ("Decision of 29 November 2006").

CONSIDERING consequently that at this stage the Chamber will therefore limit itself to examining the admissibility of the 48 exhibits presented to and discussed by Witness Josip Praljak in court, and invites the Prosecution, if need be, to seize it of a written motion with respect to the remaining documents, in accordance with Guideline 6 of the Decision of 29 November 2006,

CONSIDERING that the Chamber further notes that some of those additional documents are in no way relevant to this case,

CONSIDERING that the Chamber reminds the Prosecution that it must select the documents which are important and relevant for the determination of the case and that any possible written motion requesting the admission of additional documents should reflect such a selection,

CONSIDERING further that since the Praljak Objections, Petković Objections and Praljak Request deal with documents that are not among the 48 documents the Prosecution seeks to tender which were presented to and discussed by Witness Josip Praljak, the Chamber considers that it need not rule upon those three submissions,

CONSIDERING finally that the Chamber has examined, on the basis of the admissibility criteria set out in its Decision of 13 July 2006, the 48 documents the Prosecution seeks to tender, as well as those documents proposed by the Stojić Defence, Praljak Defence, Ćorić Defence and Pušić Defence,

CONSIDERING that the Chamber decides to admit into evidence the documents indicated “admitted” in the Annex attached to this decision since they were put to Witness Josip Praljak and bear sufficient indicia of relevance, probative value, and reliability,

FOR THE FOREGOING REASONS,

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

DENIES the Prosecution Request for Leave to Reply and the Praljak Request for Leave to Reply on the ground that they are inadmissible,

GRANTS the requests of the Stojić Defence, Praljak Defence, Ćorić Defence and Pušić Defence,

PARTIALLY GRANTS the Prosecution request for admission,

DECIDES that the documents indicated “admitted” in the annex attached to this decision should be admitted into evidence,

AND DENIES in all other respects the Prosecution request for admission and the Praljak Objections, Petković Objections and Praljak Request, for the reasons explained in this decision.

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

/signed/

Judge Jean-Claude Antonetti
Presiding Judge

Done this third day of April 2007

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 00514	Prosecution/ Ćorić Defence	Admitted.
P 00665	Stojić Defence	Admitted.
P 00677	Prosecution	Admitted.
P 01474	Stojić Defence	Admitted.
P 01711	Prosecution	Admitted.
P 01773	Ćorić Defence	Admitted.
P 01806	Ćorić Defence	Admitted.
P 02260	Prosecution	Admitted.
P 02278	Prosecution	Admitted.
P 02285	Prosecution/ Ćorić Defence	Admitted.
P 02315	Prosecution	Admitted.
P 02321	Prosecution	Admitted.
P 02325	Ćorić Defence	Admitted.
P 02368	Prosecution	Admitted.
P 02386	Prosecution	Admitted.
P 02393	Prosecution	Admitted.
P 02439	Ćorić Defence	Admitted.
P 02443	Ćorić Defence	Admitted.
P 02449 (under seal)	Prosecution	Already admitted on 26 September 2006
P 02533	Ćorić Defence	Already admitted on 2 October 2006
P 02638	Prosecution	Admitted.
P 02853	Prosecution/ Ćorić Defence	Admitted.
P 02921 (under seal)	Prosecution	Admitted (under seal).
P 03040	Prosecution	Admitted.
P 03171	Prosecution	Admitted.
P 03191	Ćorić Defence	Already admitted on 2 October 2006
P 03193	Prosecution/ Ćorić Defence	Admitted.
P 03194	Prosecution	Admitted.
P 03201	Ćorić Defence	Admitted.
P 03209	Prosecution/ Ćorić Defence	Admitted.
P 03238	Ćorić Defence	Admitted.
P 03254	Ćorić Defence	Admitted.
P 03351	Prosecution/ Ćorić Defence	Admitted.
P 03411	Prosecution	Admitted.
P 03435	Prosecution	Admitted.
P 03651	Ćorić Defence	Admitted.
P 03942	Prosecution/ Ćorić Defence	Admitted.
P 03995	Prosecution	Already admitted on 2 October 2006
P 04002	Prosecution	Admitted.

P 04031	Ćorić Defence	Admitted.
P 04141	Prosecution	Admitted.
P 04233	Prosecution	Admitted.
P 04352	Prosecution	Already admitted on 2 October 2006
P 04367	Prosecution/ Ćorić Defence	Admitted.
P 04379	Prosecution	Admitted.
P 04475	Stojić Defence	Admitted.
P 04500	Prosecution	Admitted.
P 04512	Prosecution	Admitted.
P 04530	Ćorić Defence	Admitted.
P 04686	Prosecution	Admitted.
P 04756	Ćorić Defence	Already admitted on 2 October 2006
P 04871	Prosecution	Admitted.
P 04902	Ćorić Defence	Admitted.
P 04927	Ćorić Defence	Admitted.
P 05437	Prosecution	Admitted.
P 05457	Prosecution/ Ćorić Defence	Admitted.
P 05881	Prosecution/ Ćorić Defence	Admitted.
P 05952	Prosecution	Admitted.
P 06170	Prosecution	Admitted.
P 06202	Ćorić Defence	Admitted.
P 06436	Prosecution	Admitted.
P 06583	Stojić Defence	Admitted.
P 06626	Ćorić Defence	Admitted.
P 06816	Prosecution	Admitted.
P 06819	Ćorić Defence	Admitted.
P 06844	Stojić Defence/ Ćorić Defence	Admitted.
P 06848	Prosecution/ Ćorić Defence	Admitted.
P 07004	Prosecution	Admitted.
P 07107	Prosecution	Admitted.
IC 00448	Prosecution	Admitted.
IC 00449	Prosecution	Admitted.
IC 00450	Prosecution	Admitted.
IC 00453	Praljak Defence	Admitted.
2D 00416	Stojić Defence	Admitted.
2D 00417	Stojić Defence	Admitted.
5D 02016	Ćorić Defence	Admitted.
6D 00168	Pušić Defence	Admitted.
6D 00169	Pušić Defence	Admitted.
6D 00349	Pušić Defence	Admitted.