



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 February 2009
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

Acting Registrar: Mr John Hocking

Order of: 4 February 2009

THE PROSECUTOR

v.

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

PUBLIC

ORDER ADMITTING EVIDENCE REGARDING WITNESS ILIJA KOŽULJ

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”);

CONSIDERING that Counsel for the Accused Prlić (“Prlić Defence”), Counsel for the Accused Praljak (“Praljak Defence”), and the Office of the Prosecutor (“Prosecution”) requested the admission of 45¹, 8² and 14³ exhibits, respectively, related to the testimony of Ilija Kožulj (“Proposed Exhibits”) who appeared from 22 to 24 September 2008;

CONSIDERING that the Chamber has examined the objections raised by the Prosecution to the admission of certain Proposed Exhibits from the Prlić Defence,⁴ the objections raised by the Prlić Defence to the admission of certain Proposed Exhibits from the Prosecution⁵ as well as the submission filed by the Prosecution in response to these objections;⁶

NOTING the Order Requesting Additional Observations from the Parties of 16 December 2008 (“Order of 16 December 2008”), wherein the Chamber invited the Defence teams to formulate additional objections to the exhibits proposed in this case by the Prosecution (“Additional Objections”) based on the Decision on Presentation of Documents by the Prosecution in Cross-Examination of Defence Witnesses of 27 November 2008 (“Decision of 27 November 2008”) and requested the Prosecution to respond to any additional objections;⁷

NOTING the observations submitted by the Prosecution on the Order of 16 December 2008 wherein it essentially argues that it put prosecution exhibits to the defence witnesses in court in accordance with the Chamber’s rulings and practices prior to 27 November 2008, and that it no longer has the possibility to put these

¹ IC 00856.

² IC 00857.

³ IC 00858.

⁴ “Prosecution Response to the Request of the Accused Jadranko Prlić and Slobodan Praljak for Admission of Exhibits Tendered through Witness Ilija Kožulj”, 1 October 2008, hereinafter “Prosecution Objections”.

⁵ “Prlić Defence Objections to Prosecution Exhibits Tendered through Witness Ilija Kožulj”, 1 October 2008, hereinafter “Prlić Defence Objections”.

⁶ “Prosecution Response to the Objections of Accused Jadranko Prlić to Prosecution Exhibits Tendered through Witness Ilija Kožulj”, 8 October 2008, hereinafter “Prosecution Response”.

exhibits to them in any different way, or to address any different or additional factors to present them,⁸

CONSIDERING firstly that the Chamber observes that the Defence teams did not raise Additional Objections based on the Decision of 27 November 2008 to challenge the Prosecution's Proposed Exhibits;

CONSIDERING further that the Chamber notes that in its Proposed Exhibits, the Prlić Defence has made a typographical error regarding exhibit number 1D 02444 which is typed as 1D 0244 in its request for admission and that, consequently, the Chamber will rule only on the admission of Exhibit 1D 02444 put to Witness Ilija Kožulj;

CONSIDERING furthermore that the Chamber observes that Proposed Exhibit P 04699 has already been admitted by the Chamber⁹ and that the request in respect of it is therefore moot;

CONSIDERING that the Chamber has examined each of the Proposed Exhibits on the basis of the admissibility criteria set out in the Decision on Admission of Evidence rendered by the Chamber on 13 July 2006 ("Decision of 13 July 2006"), and the Decision Adopting Guidelines for the Presentation of Defence Evidence rendered by the Chamber on 24 April 2008 ("Decision of 24 April 2008");¹⁰

CONSIDERING that the Chamber decides to admit into evidence the Proposed Exhibits indicated "Admitted" in the Annex attached to this decision since they were put to Witness Ilija Kožulj and bear sufficient indicia of relevance, probative value and reliability;

CONSIDERING that the Chamber decides not to admit into evidence the Proposed Exhibits indicated "Not Admitted" in the Annex attached to this decision since they are not consistent with the instructions laid down in the Decisions of 13 July 2006 and 24 April 2008 for the reasons set out in the Annex attached to this decision;

⁷ Order of 16 December 2008, p. 3.

⁸ "Prosecution Observations Concerning the Trial Chamber's 16 December 2008 Order Requesting Additional Observations", 8 January 2009, p. 2, paras. 4 and 6.

⁹ "Order to Admit Evidence Relative to Witness William Tomljanovich", 2 October 2006.

¹⁰ Guideline 8 related to: The Admission of Documentary Evidence through a Witness.

FOR THE FOREGOING REASONS,

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

GRANTS the request for admission of the Praljak Defence;

PARTIALLY GRANTS the request for admission of the Prlić Defence and the Prosecution;

DECIDES that the Proposed Exhibits indicated “Admitted” in the Annex attached to this Decision are to be admitted into evidence;

DISMISSES AS MOOT the request of the Prosecution regarding Proposed Exhibit P 04699 for the reasons stated in the Annex attached to this decision;

DENIES in all other respects the requests for admission of Proposed Exhibits of the Prlić 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 fourth day of February 2009
At The Hague
The Netherlands

[Seal of the Tribunal]

Annex

Exhibit number (preferably in numerical order)	Party proposing admission of the exhibit	Admitted/Not admitted/Marked for identification (MFI)
1D 00017	Prlić Defence	Admitted
1D 00055	Prlić Defence	Not admitted (Reason: the exhibit was not presented to the witness.)
1D 00063	Prlić Defence	Admitted
1D 00097	Prlić Defence	Admitted
1D 00162	Prlić Defence	Not admitted (Reason: the exhibit was not presented to the witness.)
1D 00178	Prlić Defence	Not admitted (Reason: the exhibit was not presented to the witness.)
1D 00350	Prlić Defence	Admitted
1D 00432	Prlić Defence	Not admitted (The witness was not able to comment on the relevance, probative value and reliability of the exhibit.)
1D 00433	Prlić Defence	Admitted
1D 00566	Prlić Defence	Admitted
1D 00568	Prlić Defence	Admitted
1D 00569	Prlić Defence	Admitted
1D 00589	Prlić Defence	Admitted
1D 00602	Prlić Defence	Admitted
1D 00665	Prlić Defence	Admitted
1D 00690	Prlić Defence	Admitted
1D 00692	Prlić Defence	Admitted
1D 00827	Prlić Defence	Not admitted (Reason: the exhibit was not presented to the witness.)
1D 00872	Prlić Defence	Admitted
1D 00906	Prlić Defence	Admitted
1D 01614	Prlić Defence	Admitted
1D 01804	Prlić Defence	Admitted
1D 01805	Prlić Defence	Admitted
1D 01806	Prlić Defence	Admitted
1D 01807	Prlić Defence	Admitted
1D 01953	Prlić Defence	Admitted
1D 01977	Prlić Defence	Admitted
1D 01982	Prlić Defence	Admitted

1D 02018	Prlić Defence	Not admitted (Reason: the exhibit was not presented to the witness.)
1D 02038	Prlić Defence	Admitted
1D 02390	Prlić Defence	Admitted
1D 02396	Prlić Defence	Admitted
1D 02444	Prlić Defence	Admitted
1D 02665	Prlić Defence	Admitted
1D 02666	Prlić Defence	Admitted
1D 02667	Prlić Defence	Admitted
1D 02668	Prlić Defence	Admitted
1D 02669	Prlić Defence	Admitted
1D 02670	Prlić and Praljak Defences	Admitted
1D 02671	Prlić and Praljak Defences	Admitted
1D 02714	Prlić Defence	Admitted
1D 02715	Prlić Defence	Admitted
1D 02716	Prlić Defence	Admitted
1D 02743	Prlić Defence	Admitted
1D 02754	Prlić Defence	Admitted
IC 00850	Praljak Defence	Admitted
IC 00851	Praljak Defence	Admitted
IC 00852	Praljak Defence	Admitted
IC 00853	Praljak Defence	Admitted
1D 00549	Praljak Defence	Admitted
1D 02672	Praljak Defence	Admitted
P 00578	Prosecution	Admitted
P 01818	Prosecution	Admitted
P 03053	Prosecution	Admitted
P 04699	Prosecution	Moot (Reason: Already admitted by the Order to Admit Evidence Relative to Witness William Tomljanovich of 2 October 2006.)
P 05551	Prosecution	Admitted
P 06807	Prosecution	Admitted
P 08489	Prosecution	Not admitted (The Prosecution failed to specify the pages requested for admission.)
P 10620	Prosecution	Not admitted (The Prosecution failed to specify which extracts were presented to the Witness and requested for admission.)
P 10627	Prosecution	Admitted

P 10630	Prosecution	Not admitted (This list of exhibits is not admissible since each exhibit must have been discussed in court and requested for admission separately.)
P 10631	Prosecution	Not admitted (This list of exhibits is not admissible since each exhibit must have been discussed in court and requested for admission separately.)
P 10632	Prosecution	Not admitted (This list of exhibits is not admissible since each exhibit must have been discussed in court and requested for admission separately.)
P 10633	Prosecution	Not admitted (This list of exhibits is not admissible since each exhibit must have been discussed in court and requested for admission separately.)
P 10638	Prosecution	Admitted