



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: 7 April 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: 7 April 2009

THE PROSECUTOR

v.

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

PUBLIC

ORDER ADMITTING EVIDENCE RELATED TO WITNESS IVAN BANDIĆ

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"),

NOTING the request for the admission of 29 exhibits submitted by Counsel for the Accused Stojić ("Stojić Defence"),¹ the request for the admission of one exhibit submitted by Counsel for the Accused Praljak ("Praljak Defence"),² the request for the admission of 14 exhibits submitted by Counsel for the Accused Petković ("Petković Defence"),³ the request for the admission of eight exhibits submitted by Counsel for the Accused Ćorić ("Ćorić Defence")⁴ and the request for the admission of four exhibits submitted by the Office of the Prosecutor ("Prosecution"),⁵ all five related to the testimony of Witness Ivan Bandić ("Proposed Exhibits") who testified from 16 to 19 March 2009,

NOTING the objections raised by the Prosecution to a number of Proposed Exhibits from the Stojić Defence and the Ćorić Defence⁶ and the Reply filed by the Stojić Defence in response to these objections ("Reply of the Stojić Defence")⁷ as well as the objections raised by the Stojić Defence to a number of Proposed Exhibits from the Prosecution ("Objections by the Stojić Defence to Proposed Exhibits Tendered by the Prosecution")⁸ and by the Petković Defence,⁹ and the Reply filed by the Petković Defence in response to these objections,¹⁰

NOTING the Decision on Presentation of Documents by the Prosecution in Cross-examination of Defence Witnesses of 27 November 2008 ("Decision of 27 November 2008"),

NOTING the Decision on the Interlocutory Appeal against the Trial Chamber's Decision on Presentation of Documents by the Prosecution in the Cross-examination

¹ IC 00955.

² IC 00956.

³ IC 00957.

⁴ IC 00958.

⁵ IC 00959.

⁶ IC 00963.

⁷ IC 00966.

⁸ IC 00961.

⁹ IC 00962.

¹⁰ IC 00967.

of Defence Witnesses rendered by the Appeals Chamber on 26 February 2009 in which it confirms the Decision of 27 November 2008,

CONSIDERING, first of all, that the Chamber notes that the BCS version of Proposed Exhibit 2D 01498, for which the Stojić Defence sought admission, as it appears on the E-court system, is of very poor quality; that it is therefore necessary for the Stojić Defence to upload onto the E-court system a good-quality BCS copy of the said Proposed Exhibit,

CONSIDERING that in the Objections by the Stojić Defence to the Proposed Exhibits from the Prosecution, the Stojić Defence opposed in particular the admission of Exhibits P 03227 and P 10556 on the ground that the witness was not able to comment on the probative value and relevance of these exhibits,¹¹

CONSIDERING that the Chamber finds that in respect of these Proposed Exhibits, the Prosecution argues that it put them to the witness with the aim of questioning the credibility of the witness and therefore requests the admission of Proposed Exhibits P 03227 and P 10556 for this reason,¹²

CONSIDERING that for these two Proposed Exhibits, P 03227 and P 10556, which are "new documents" in the sense of the Decision of 27 November 2008,¹³ the Chamber will analyse, in accordance with the request by the Prosecution, their admissibility solely in that they seek to test the credibility of the witness,

CONSIDERING that the Chamber notes, moreover, that in the Reply by the Stojić Defence, the latter no longer seeks the admission of Exhibits P 03227 and P 04340 which appeared originally on its IC 00955 list,¹⁴

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

¹¹ IC 00961.

¹² IC 00959.

¹³ Decision of 27 November 2008, paras. 4, 13 and 20.

¹⁴ IC 00966.

in the Decision Adopting Guidelines for the Presentation of Defence Evidence, rendered by the Chamber on 24 April 2008 ("Decision of 24 April 2008"),¹⁵

CONSIDERING that the Chamber decides to admit into evidence the Proposed Exhibits indicated "admitted" in the Annex attached to this Decision as they were put to Witness Ivan Bandić in court and present 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 as they do not conform to the instructions laid out in the Decisions of 13 July 2006 and 24 April 2008 for the reasons given in the Annex attached to this decision,

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 requests for admission of the Stojić Defence, the Petković Defence, the Ćorić Defence and the Prosecution,

ORDERS the Stojić Defence to upload onto the E-court system a good version of Exhibit 2D 01498 for the reasons stated in the present order,

DECIDES that there is cause to admit into evidence Proposed Exhibit P 03227 solely in that it casts doubt on the credibility of the witness,

DECIDES that there is cause to admit into evidence the other Proposed Exhibits indicated "admitted" in the Annex attached to this decision,

DENIES in all the other respects the requests for the admission of the Proposed Exhibits by the Stojić Defence, the Ćorić Defence and the Prosecution for the reasons stated in the Annex attached to this decision.

¹⁵ Guideline 8 regarding the Admission of Documentary Evidence through a Witness.

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

/signed/

Jean-Claude Antonetti

Presiding Judge

Done this seventh day of April 2009

At The Hague

The Netherlands

[Seal of the Tribunal]

Annex

| Exhibit Number | Party Proposing Admission of Exhibits | Admitted/Not Admitted/Marked for Identification (MFI) |
|--|--|--|
| 2D 00086 | Stojić Defence | Admitted |
| 2D 00515 | Stojić Defence | Admitted |
| 2D 00924 | Stojić Defence | Admitted |
| 2D 00925 | Stojić Defence | Admitted |
| 2D 00929 | Stojić Defence | Admitted |
| 2D 00930 | Stojić Defence | Admitted |
| 2D 00931 | Stojić Defence | Admitted |
| 2D 00935 | Stojić Defence | Admitted |
| 2D 00939 | Stojić Defence / Petković Defence | Admitted |
| 2D 00940 | Stojić Defence | Admitted |
| 2D 00941 | Stojić Defence | Admitted |
| 2D 00942 | Stojić Defence / Petković Defence | Admitted |
| 2D 00947 | Stojić Defence | Admitted |
| 2D 00948 | Stojić Defence | Admitted |
| 2D 00950 | Stojić Defence | Admitted |
| 2D 00973 | Stojić Defence | Admitted |
| 2D 01495 | Stojić Defence | Admitted |
| 2D 01498 | Stojić Defence | Admitted |
| 2D 01505 | Stojić Defence | Admitted |
| 2D 01506 | Stojić Defence | Admitted |
| P 00566 | Stojić Defence | Not Admitted (Reason: the Stojić Defence only presented one page of the 23-page document in BCS and 24-page document in English to the witness and has not specified the pages of the document for which it seeks admission in accordance with Guideline 8 of the Decision of 24 April 2008) |
| P 00858 | Stojić Defence | Admitted |
| P 02019 | Stojić Defence | Admitted |
| P 02596 | Stojić Defence | Admitted |
| P 05226 | Stojić Defence | Admitted |
| P 06555 | Stojić Defence | Admitted |
| P 06828 | Stojić Defence | Admitted |
| 2D 00948 | Praljak Defence | Admitted |
| P 00131 (Pages for which admission is sought: pages 107 to 109 of the BCS version and pages 107 to 109 of the English version) ¹⁶ | Petković Defence | Admitted (Pages 107 to 109 of the BCS version and pages 107 to 109 of the English version) |

¹⁶ Numbers correspond to E-court pages.

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| P 03177 | Petković Defence/ Prosecution | Admitted |
| P 08852 (Pages for which admission is sought: the entire document or, alternatively, page 5 of the BCS version and page 9 of the English version) | Petković Defence | Admitted (Page 1 of the BCS and English versions and page 5 of the BCS version and page 9 of the English version) |
| 4D 01308 | Petković Defence | Not Admitted (Reason: the witness did not comment on the relevance and the probative value of the Exhibit) |
| 4D 01310 | Petković Defence | Admitted |
| 4D 01311 | Petković Defence | Not Admitted (Reason: the witness did not comment on the relevance or the probative value of the Exhibit) |
| 4D 01315 | Petković Defence | Admitted |
| 4D 01317 | Petković Defence | Admitted |
| 4D 01320 | Petković Defence | Admitted |
| 4D 01324 | Petković Defence | Admitted |
| 4D 01325 | Petković Defence | Admitted |
| 4D 01652 | Petković Defence | Admitted |
| P 01803 | Čorić Defence | Admitted |
| P 02544 | Čorić Defence | Admitted |
| P 04143 | Čorić Defence | Admitted |
| P 04190 | Čorić Defence | Admitted |
| 2D 00934 | Čorić Defence | Admitted |
| 5D 02069 | Čorić Defence | Admitted |
| 5D 02092 | Čorić Defence | Admitted |
| 5D 04440 | Čorić Defence | Not Admitted (Reason: the witness did not comment on the relevance and the probative value of the Exhibit. Moreover, the Čorić Defence did not specify the page numbers in this 20-page document for which it seeks admission) |
| P 03227 | Prosecution | Admitted (This document is admitted only in that it tests the credibility of witness Ivan Bandić) |
| P 10556 | Prosecution | Not Admitted (Reason: The witness was not able to comment in court on the authenticity, relevance and probative value of this exhibit. Moreover, the Prosecution did not specify the pages of the document (22 pages in its BCS version and 37 pages in its English version) for which it seeks admission in line with Guideline 8 of the Decision of 24 |

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| | | April 2008) |
| P 10809 | Prosecution | Not Admitted (Reason: the witness did not comment on the relevance and probative value of this exhibit) |