



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: 1 December 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

**Registrar:** Mr John Hocking

**Order of:** 1 December 2009

**THE PROSECUTOR**

v.

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

***PUBLIC***

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**ORDER ON ADMISSION OF EVIDENCE RELATING TO EXPERT  
WITNESS VLADO ŠAKIĆ**

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**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 to admit six exhibits submitted by Counsel for the Accused Praljak (“Praljak Defence”)<sup>1</sup> and the request to admit 11 exhibits submitted by the Office of the Prosecutor (“Prosecution”)<sup>2</sup>, both relating to the testimony of Vlado Šakić (“Proposed Exhibits”; “Witness”) who appeared on 5 and 6 October 2009,

**NOTING** the objections formulated by the Praljak Defence to one Proposed Exhibit submitted by the Prosecution,<sup>3</sup> the objections formulated by the Prosecution to four Proposed Exhibits submitted by the Praljak Defence<sup>4</sup> and the reply by the Praljak Defence to the objections formulated by the Prosecution,<sup>5</sup>

**NOTING** the “Order on the Qualifications as Expert and Mode of Questioning of Witness Vlado Šakić”, rendered publicly by the Chamber on 6 May 2009, in which the Chamber granted the Witness qualifications as an expert in socio-psychology to testify on issues relating to the socio-psychological context of the war in Bosnia and Herzegovina between 1991 and 1995 (“Order of 6 May 2009”),

**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 publicly by the Chamber on 13 July 2006 and in the “Decision Adopting Guidelines for the Presentation of Defence Evidence” rendered by the Chamber on 24 April 2008,<sup>6</sup>

**CONSIDERING** that the Chamber notes that, among the Proposed Exhibits, Exhibit 3D 03721 is an expert report written by the Witness and that the report was disclosed under Rule 94 *bis* of the Rules of Procedure and Evidence (“Rules”) on 3 April 2009,<sup>7</sup>

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<sup>1</sup> IC 01074.

<sup>2</sup> IC 01075.

<sup>3</sup> IC 01079.

<sup>4</sup> IC 01080.

<sup>5</sup> IC 01081.

<sup>6</sup> Guideline 8: The Admission of Documentary Evidence through a Witness.

<sup>7</sup> “Slobodan Praljak’s Submission of the Expert Report of Dr Vlado Šakić”, 3 April 2009.

**CONSIDERING** that the Chamber recalls the established jurisprudence of the Tribunal with respect to the admission of expert reports, that is, that the standards of admissibility of evidence set out in Rule 89 (C) of the Rules apply to the admissibility of an expert report under Rule 94 *bis* of the Rules,<sup>8</sup>

**CONSIDERING** that the Chamber also recalls that the admissibility of an expert report is subject to four additional requirements: (1) the witness is classified as an expert; (2) the report meets the minimum standards of reliability; (3) the report is relevant and of probative value; and (4) the content of the report falls within the expertise of the expert witness,<sup>9</sup>

**CONSIDERING** that in its Order of 6 May 2009 the Chamber decided that Vlado Šakić was qualified to testify as an expert witness and that, during his testimony, he acknowledged that he had written and signed the expert report entitled “The War in Bosnia and Herzegovina 1991-1995: A Socio-Psychological Expertise” (“Report”),<sup>10</sup>

**CONSIDERING** that, in the case in point, the content of the Report falls within the expertise of the Witness and presents some reliability, relevance and probative value; that the Chamber therefore decides to admit it, although it nevertheless reminds the Praljak Defence that this decision is without prejudice to the weight and credibility which the Chamber will subsequently decide to attach to the Report,<sup>11</sup>

**CONSIDERING** that the Chamber notes that Proposed Exhibit 3D 03727, sought to be admitted by the Praljak Defence and the Prosecution, is the *Curriculum Vitae* of the Witness accompanied by a list of selected sources he used in writing his Report and untranslated lists of the activities and publications of the Witness; that the Chamber finds that it thus contains not only the *Curriculum Vitae* of the Witness, but also a large quantity of untranslated information; that the Chamber therefore decides to admit only pages 1 to 5 of Exhibit 3D 03727, which are the *Curriculum Vitae* of the

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<sup>8</sup> *The Prosecutor v. Vujadin Popović*, Case No. IT-05-88-AR73.2, “Decision on Joint Defence Interlocutory Appeal Concerning the Status of Richard Butler as an Expert Witness”, 30 January 2008, para. 21 (“*Popović* Decision”); *The Prosecutor v. Radoslav Brđanin*, Case No. IT-99-36-T, “Decision on Prosecution’s Submission of Statement of Expert Witness Ewan Brown”, 3 June 2003.

<sup>9</sup> *Popović* Decision, para. 21; *The Prosecutor v. Milan Martić*, Case No. IT-95-11-T, “Decision on Defence’s Submission of the Expert Report of Professor Smilja Avramov Pursuant to Rule 94 *bis*”, 9 November 2006.

<sup>10</sup> Transcript in French (“T(F)”), 5 October 2009, p. 45599.

<sup>11</sup> *Popović* Decision, para. 22.

Witness and a list containing a summary of the sources used by the Witness in writing his Report,

**CONSIDERING** that Proposed Exhibit IC 01073, sought for admission by the Praljak Defence, is classified by the Praljak Defence as the *Curriculum Vitae* of the Witness; that the Proposed Exhibit is in fact neither a *Curriculum Vitae* in the literal sense nor a simple summary about him as announced in court by the Praljak Defence;<sup>12</sup> that in fact the Proposed Exhibit has 45 pages, with a large part of it in duplicate; that many of the 45 pages contain information – coming from the Internet – about the *Ivo Pilar* Institute that the Witness heads; that since the Chamber has already admitted, through Proposed Exhibit 3D 03727, the *Curriculum Vitae* of the Witness and that the relevance of the information about the *Ivo Pilar* Institute was not demonstrated in court, the Chamber decides to reject this Proposed Exhibit,

**CONSIDERING** that the Chamber decides to admit into evidence the exhibits marked as “Admitted” in the Annex attached to this Decision since they were put to the witness Vlado Šakić and bear sufficient indicia of relevance, probative value and reliability,

**CONSIDERING** that the Chamber decides not to admit into evidence the Proposed Exhibits marked as “Not Admitted” in the Annex attached to this Decision since they do not meet the requirements set forth in the Decisions of 13 July 2006 and 24 April 2008,

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<sup>12</sup> T(F), 5 October 2009, p. 45592.

**FOR THE FOREGOING REASONS,**

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

**PARTIALLY GRANTS** the requests of the Praljak Defence and the Prosecution,

**DECIDES** that it is appropriate to admit into evidence the Proposed Exhibits marked as “Admitted” in the Annex attached to this Order,

**DENIES, by majority,** Presiding Judge Antonetti dissenting, the Prosecution request for admission of Proposed Exhibits P 02595, P 02650, P 03156 and P 03186 for the reasons stated in the Annex attached to this Order, **AND**

**DENIES** in all the other respects the requests for admission by the Praljak Defence and the Prosecution for the reasons stated in the Annex attached to this Order,

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

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Jean-Claude Antonetti  
Presiding Judge

Done this first day of December 2009  
The Hague (The Netherlands)

**[Seal of the Tribunal]**

Annex

<b>Exhibit Number</b>	<b>Party Proposing Admission of the Exhibit</b>	<b>Admitted/Not Admitted/Marked for Identification (MFI)</b>
3D 03156	Praljak Defence	Not admitted (Reason: the Praljak Defence, through Witness Vlado Šakić, did not establish any link of relevance between this exhibit and the Indictment)
3D 03521, 45 pages: 3D43-0564; 3D43-0565; 3D43-0566; 3D43-0571 to 3D43-0573; 3D43-81 to 3D43-0588; 3D43-0592 to 3D43-0601; 3D43-0603 to 3D43-0617; 3D43-0623 to 3D43-0630 (corresponding to pages 1 to 3; 8 to 10; 18 to 25; 29 to 38; 40 to 54 and 60 to 67 of the English version of the document in <i>ecourt</i> )	Praljak Defence	Not admitted (Reason: redundant document, repeated in large part in the first part of the Report and its additional value in relation to the Report was not demonstrated by the Praljak Defence)
3D 03558, 1 page: 3D41-1078 (corresponding to page 17 of the English version of the document in <i>ecourt</i> )	Praljak Defence	Not admitted (Reason: Vlado Šakić affirmed that he had not used this Exhibit in his Report and the Praljak Defence, through this Witness, did not establish any link of relevance between this exhibit and the Indictment)
3D 03721	Praljak Defence	Admitted
3D 03727	Praljak Defence and Prosecution	Admitted in part – pages 1 to 5 of this Exhibit (Reason: pages 6 to 21 have not been translated)
IC 01073	Praljak Defence	Not admitted (Reason: the Exhibit has 45 pages, half of which are duplicates; these pages contain a summary of the <i>Curriculum Vitae</i> of Vlado Šakić already admitted through Exhibit 3D 03727; lack of relevance in all other respects)
P 02595	Prosecution	Not admitted by majority (Reason: the witness did not comment on the reliability, relevance and probative value of the exhibit)
P 02650	Prosecution	Not admitted by majority (Reason: the witness did not comment on the reliability, relevance and probative value of the exhibit)
P 03156	Prosecution	Not admitted by majority (Reason: the witness did not comment on the reliability, relevance and probative value of the exhibit)
P 03186	Prosecution	Not admitted by majority (Reason: the witness did not comment on the

		reliability, relevance and probative value of the exhibit)
P 10522	Prosecution	Admitted
P 11016	Prosecution	Admitted
P 11020	Prosecution	Admitted
P 11023	Prosecution	Not admitted (Reason: the witness did not comment on the reliability, relevance and probative value of the exhibit)
P 11024	Prosecution	Admitted
P 11027	Prosecution	Admitted