



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: 5 May 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: 5 May 2009

THE PROSECUTOR

v.

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

PUBLIC

ORDER ADMITTING EVIDENCE RELATED TO WITNESS VESO VEGAR

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 49 exhibits presented by Counsel for the Accused Stojić ("Stojić Defence"),¹ the request for the admission of 12 exhibits presented by Counsel for the Accused Praljak ("Praljak Defence"),² the request for the admission of four exhibits presented by Counsel for the Accused Petković ("Petković Defence"),³ and the request for the admission of 14 exhibits presented by the Office of the Prosecutor ("Prosecution"),⁴ all related to the testimony of Witness Veso Vegar ("Proposed Exhibits");

NOTING "Slobodan Praljak's Motion for the Admission of Exhibit 3D 00785" filed by the Praljak Defence on 23 February 2009, with an attached Annex ("Praljak Supplement"), in which it supplements its request for admission in support of its IC 0927 list and seeks, principally, the admission of Exhibit 3D 00785 in its entirety and, in the alternative, the admission of the pages mentioned in the Annex attached to the Praljak Supplement and, at the very least, those listed in its IC list;

NOTING the objections raised by the Prosecution to the admission of some of the Proposed Exhibits from the Stojić Defence and the Praljak Defence⁵ and the responses of the Stojić Defence⁶ and the Praljak Defence⁷ to these objections;

CONSIDERING that, at the hearing of 16 February 2009, the Chamber recalled the Order of 27 September 2006⁸ and rendered an oral decision, also on 16 February 2009 ("Oral Decision of 16 February 2009") during the examination of Veso Vegar, who

¹ IC 00926.

² IC 00927.

³ IC 00928.

⁴ IC 00929.

⁵ "Prosecution Response to the Bruno Stojić Request for Admission of Exhibit Tendered through Witness Veso Vegar", 25 February 2009; "Prosecution Response to the Slobodan Praljak Request for Admission of Exhibit Tendered through Witness Veso Vegar", 25 February 2009.

⁶ "Bruno Stojić Response to Prosecution Response to Bruno Stojić's Request for Admission of Exhibits Tendered through Witness Veso Vegar", 2 March 2009.

⁷ "Slobodan Praljak's Reply to the 'Prosecution Response to the Slobodan Praljak Request for Admission of Exhibit Tendered through Witness Veso Vegar' Requesting Admission of Exhibits 3D 00785 and 3D 01026", 2 March 2009 ("Reply of the Praljak Defence").

⁸ Transcript of French ("T(F)"), pp. 36869 and 36878 citing "Order to Admit Evidence Relative to Witness Christopher Beese", 27 September 2006, p. 3.

appeared from 16 to 19 February 2009, in which the Chamber recalled that the *tu quoque* principle was not a ground of defence for limiting the criminal responsibility of the Accused; that the evidence related to atrocities committed against the Croats of Bosnia would only be admitted if they tended to disprove any of the allegations in the Indictment amended on 11 June 2009 ("Indictment") and authorised the parties to present such evidence to a witness in court only when proves to be strictly necessary for their case;⁹

CONSIDERING that, in limine, in this case the Chamber finds that the parties had also filed requests and responses in writing regarding the motions for the admission of Proposed Exhibits in addition to the IC lists;

CONSIDERING that, in this respect, the Chamber wishes to recall Guideline 8 on the admission of documentary evidence according to which "a party seeking to admit into the record an exhibit that has been put to a witness in court shall do so by way of a list filed in court";¹⁰

CONSIDERING, nevertheless, and while the procedure for submission through IC lists is not interchangeable with the submission of written motions,¹¹ the Chamber agrees, as an exception, to examine the entire body of submissions regarding the requests to admit Proposed Exhibits as well as the objections and responses to the objections;

CONSIDERING that with regard to the consideration of the merits, the Chamber finds that through the Reply of the Praljak Defence it withdrew its request for the admission of Exhibit 3D 01025 and page 3D36-1236 of Exhibit 3D 00785;¹²

CONSIDERING that the Chamber has examined each of the Proposed Exhibits on the basis of the admissibility criteria defined in the "Decision on the Admission of Evidence" rendered by the Chamber on 13 July 2006 ("Decision of 13 July 2006"), as

⁹ Oral Decision of 16 February 2009, T(F) 36878.

¹⁰ "Decision Adopting Guidelines for the Presentation of Defence Evidence", 24 April 2008, para. 32.

¹¹ Oral Decision of 2 March 2009, T(F), pp. 37483 and 37484.

¹² Reply of the Praljak Defence, para. 7.

well as the "Decision Adopting Guidelines for the Presentation of Defence Evidence" rendered by the Chamber on 24 April 2008 ("Decision of 24 April 2008");¹³

CONSIDERING that the Chamber decides to admit into evidence the Proposed Exhibits marked "admitted" in the Annex attached to this Order, since they were put to the witness in court and present sufficient indicia of relevance, reliability and probative value;

CONSIDERING that the Chamber decides not to admit into evidence the Proposed Exhibits marked "not admitted" in the Annex attached to this Order, since they do not conform to the provisions laid down in the Decisions of 13 July 2006 and 24 April 2008, for the reasons set out in the Annex attached to this Order;

CONSIDERING, specifically, that in the opinion of the Chamber, the Stojić Defence has not shown through Witness Veso Vegar in court, in accordance with the Oral Decision of 16 February 2009, how Proposed Exhibits 2D 00157, 2D 00668 and 2D 00815 on the crimes committed against Croats are linked to the crimes as alleged in the Indictment or even contradict the existence of a joint criminal enterprise as alleged in the Indictment;

CONSIDERING that the Chamber accordingly decides not to admit into evidence Proposed Exhibits 2D 00157, 2D 00668 and 2D 00815 because of their lack of relevance, as mentioned above and in the Annex attached to this Order;

CONSIDERING, moreover, that with regard to Proposed Exhibits 2D 00818, 2D 00821, 2D 00824, 2D 00826, 2D 00827, 2D 00828, 2D 00829, 2D 00830 and P 05984, the Chamber agrees with the Prosecution¹⁴ that the fact that the father-in-law of Witness Veso Vegar received a pension and had basic knowledge of the existence of lists of pensioners drawn up by the HVO¹⁵ does not give Witness Veso Vegar sufficient knowledge in this area, allowing him to comment on a series of documents related thereto that were put to him in Court; that as a result the Chamber considers that the witness could not comment on the reliability, relevance and probative value of these documents;

¹³ Guideline 8 on the admission of documentary evidence through a witness.

¹⁴ T(F) of 17 February 2009; "Prosecution Response to the Bruno Stojić Request for Admission of Exhibit Tendered through Witness Veso Vegar", 25 February 2009, para. 9.

¹⁵ P. 36999, line 18, T(F) of 17 February 2009.

CONSIDERING, therefore, that the Chamber decides not to admit into evidence Proposed Exhibits 2D 00818, 2D 00821, 2D 00824, 2D 00826, 2D 00827, 2D 00828, 2D 00829, 2D 00830 and P 05984 for the reasons set out above and in the Annex attached to this Order;

CONSIDERING, moreover, that the Chamber notes that Exhibit 3D 00785, for which in the Praljak Supplement the Praljak Defence requests, principally, admission in its entirety, apart from page 3D36-1236,¹⁶ is 259 pages long; that this request does not conform to the "Decision Adopting Guidelines for the Presentation of Defence Evidence" of 24 April 2008,¹⁷ since only the pages put to Witness Veso Vegar in court and listed in the IC 00927 list and in the Annex to the Supplement are admissible;¹⁸

CONSIDERING, consequently, that the Chamber decides to reject the alternative request of the Praljak Defence as it requests the admission of pages mentioned in the Annex to the Supplement that were not put to Witness Veso Vegar during his testimony;

CONSIDERING, moreover, that the Chamber reminds the Praljak Defence once more that, in its requests for admission, E-court pages rather than ERN pages of exhibits for which it seeks admission must be mentioned, in future, without fail in the IC lists, failing which they will be rejected;

FOR THE FOREGOING REASONS,

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

DECLARES MOOT the request of the Stojić Defence with regard to Proposed Exhibits 2D 00567, 2D 00927, 2D 01353, 2D 01370, 2D 01446, 2D 01450, P 02945 and P 07419; as well as the request of the Petković Defence with regard to Proposed Exhibit 4D 01284, for the reasons set out in the Annex attached to this decision;

¹⁶ Reply of the Praljak Defence.

PARTIALLY GRANTS, the requests for admission of the Prosecution, the Stojić Defence, the Praljak Defence and the Petković Defence;

ADMITS into evidence the Proposed Exhibits marked "admitted" in the Annex attached to this decision;

DENIES, in all other respects, the requests for admission of the Stojić Defence, the Praljak Defence and the Prosecution, for the reasons set out in this decision and in the attached Annex;

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

/signed/

Jean-Claude Antonetti

Presiding Judge

Done this fifth day of May 2009

At The Hague

The Netherlands

[Seal of the Tribunal]

¹⁷ "Decision Adopting Guidelines for the Presentation of Defence Evidence", 24 April 2008, para. 30.

¹⁸ IC 00927.

Annex

Exhibit Number	Party Proposing Admission of Exhibits	Admitted/Not Admitted/Marked for Identification (MFI)
1D 02423	Stojić Defence	Not admitted (Reason: the document is not mentioned in the 65 <i>ter</i> list of the Stojić Defence)
2D 00157	Stojić Defence	Not admitted (Reason: document not relevant in this case)
2D 00338	Stojić Defence	Not admitted (Reason: the witness was not able to comment on the reliability, relevance and probative value of this exhibit)
2D 00418	Stojić Defence	Admitted
2D 00448	Stojić Defence, Petković Defence	Admitted
2D 00567	Stojić Defence, Petković Defence	Moot (Reason: exhibit already admitted by the Order of 6 March 2009 (Witness Slobodan Bozić))
2D 00635	Stojić Defence	Admitted
2D 00637	Stojić Defence	Admitted
2D 00643	Stojić Defence	Admitted
2D 00651*	Stojić Defence	Admitted
2D 00655	Stojić Defence	Admitted
2D 00656	Stojić Defence	Admitted
2D 00668	Stojić Defence	Not admitted (Reason: not relevant in this case)
2D 00675	Stojić Defence	Admitted
2D 00676	Stojić Defence	Admitted
2D 00677	Stojić Defence	Admitted
2D 00682	Stojić Defence	Admitted
2D 00685	Stojić Defence	Admitted
2D 00687	Stojić Defence	Admitted
2D 00689	Stojić Defence	Admitted
2D 00815	Stojić Defence	Not admitted (Reason: not relevant in this case)
2D 00818	Stojić Defence	Not admitted (Reason: the witness is not competent to comment on the subject of pensions and could therefore

		not comment on the reliability, relevance and probative value of this exhibit)
2D 00821	Stojić Defence	Not admitted (Reason: the witness is not competent to comment on the subject of pensions and could therefore not comment on the reliability, relevance and probative value of this exhibit)
2D 00824	Stojić Defence	Not admitted (Reason: the witness is not competent to comment on the subject of pensions and could therefore not comment on the reliability, relevance and probative value of this exhibit; in addition the Stojić Defence did not specify the page numbers of a 79-page document for which it seeks admission as is required under Paragraph 30 of the Decision of 24 April 2008)
2D 00826	Stojić Defence	Not admitted (Reason: the witness is not competent to comment on the subject of pensions and could therefore not comment on the reliability, relevance and probative value of this exhibit)
2D 00827	Stojić Defence	Not admitted (Reason: the witness is not competent to comment on the subject of pensions and could therefore not comment on the reliability, relevance and probative value of this exhibit)
2D 00828	Stojić Defence	Not admitted (Reason: the witness is not competent to comment on the subject of pensions and could therefore not comment on the reliability, relevance and probative value of this exhibit)
2D 00829	Stojić Defence	Not admitted (Reason: the witness is not competent to comment on the subject of pensions and could therefore not comment on the reliability, relevance and probative value

		of this exhibit; in addition the Stojić Defence did not specify the page numbers of the document for which it seeks admission as is required under Paragraph 30 of the Decision of 24 April 2008)
2D 00830	Stojić Defence	Not admitted (Reason: the witness was not competent to comment on the subject of pensions and could therefore not comment on the reliability, relevance and probative value of this exhibit; in addition the Stojić Defence did not specify the page numbers of the document for which it seeks admission as is required under Paragraph 30 of the Decision of 24 April 2008)
2D 00927	Stojić Defence	Moot (Already admitted by the Order of 10 March 2009 (Witness Bruno Pinjuh)
2D 01309	Stojić Defence	Admitted
2D 01317	Stojić Defence	Not admitted (Reason: the witness was not able to comment on the reliability, relevance and probative value of this exhibit)
2D 01353	Stojić Defence	Moot (Already admitted by the Order of 25 February 2009 (Witness Davor Marijan)
2D 01370	Stojić Defence	Moot (Already admitted by the Order of 25 February 2009 (Witness Davor Marijan)
2D 01446	Stojić Defence	Moot (Already admitted by the Order of 25 February 2009 (Witness Davor Marijan)
2D 01450	Stojić Defence	Moot (Already admitted by the Order of 25 February 2009 (Witness Davor Marijan)
2D 01488	Stojić Defence	Not admitted (Reason: the exhibit was not put to the witness in court)
2D 02012	Stojić Defence	Not admitted (Reason: the document does not appear on the 65 <i>ter</i> list of the Stojić Defence)
2D 02050	Stojić Defence	Not admitted (Reason: the document does not appear on

		the 65 <i>ter</i> list of the Stojić Defence and there is no English translation of the document in the E-court system)
3D 00785 - principally: the document in its entirety - in the alternative: the pages mentioned in the Annex to the Praljak Supplement and the IC list	Praljak Defence	Partially admitted (only pages 29, 31, 32 and 33 and 92, 94, 96, 102, 103 and 104 were put to Witness Veso Vegar in court)
3D 01026	Praljak Defence	Not admitted (Reason: the witness was not able to comment on the reliability of this exhibit)
3D 03101 pages 3 to 6 in E-court of the English translation under numbers 3D40-0037 to 3D40-0040 (corresponding to pages 6 and 7 in E-court of the original BCS document)	Praljak Defence	Admitted : pages 3 to 6 in E-court of the English translation under number 3D40-0035
3D 03228 pages 1 to 6 in E-court of the English translation (corresponding to pages 2, 3, 4, 6, 7 and 8 in E-court of the original BCS document)	Praljak Defence	Admitted : pages 1 to 6 in E-court of the English translation
3D 03266	Praljak Defence	Admitted
3D 03267	Praljak Defence	Admitted
3D 03268	Praljak Defence	Admitted
3D 03269	Praljak Defence	Admitted
3D 03270	Praljak Defence	Admitted
3D 03271	Praljak Defence	Admitted
3D 03272	Praljak Defence	Admitted
4D 01284	Petković Defence	Moot (Already admitted by the Order of 25 February 2009 (Witness Davor Marijan)
P 00566	Stojić Defence	Not admitted (Reason: the Stojić Defence did not specify the pages of the document for which it seeks admission)

P 01372	Stojić Defence	Admitted
P 01374	Stojić Defence	Admitted
P 02157	Prosecution	Not admitted (Reason: the video lasts 1 hour and 55 minutes and the Prosecution did not specify the excerpt for which it seeks admission; in addition, the video was not retranscribed into English)
P 02538	Stojić Defence	Admitted
P 02945	Stojić Defence	Moot. Already admitted by the Order of 25 February 2009 (Witness Davor Marijan)
P 05032	Petković Defence	Admitted
P 05984	Stojić Defence	Not admitted (Reason: the witness is not competent to comment on the subject of pensions and could therefore not comment on the reliability, relevance and probative value of this exhibit)
P 07419 (did not specify pages for which admission is sought)	Stojić Defence	Moot for pages 1 to 7 in E-court of the English version (Reason: already admitted by the "Order to Admit Evidence Related to Witness Slobodan Božić" of 6 March 2009) Not admitted in all other respects (Reason: Only pages 1 to 7 of the English version under number L002-9414 have been translated)
P 10675	Prosecution	Admitted
P 10816	Prosecution	Admitted
P 10820	Stojić Defence, Prosecution	Admitted
P 10826	Prosecution	Admitted
P 10831	Prosecution	Admitted
P 10832	Prosecution	Admitted
P 10837	Prosecution	Admitted
P 10838	Stojić Defence, Prosecution	Admitted
P 10840	Prosecution	Not admitted (Reason: the translation into BCS is missing)
P 10845	Prosecution	Not admitted (Reason: the translation into BCS is

		missing)
P 10846	Prosecution	Admitted
P 10847	Stojić Defence, Prosecution	Admitted
P 10850	Prosecution	Admitted