



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-03-67-T
Date: 22 December 2010
Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, Presiding
Judge Frederik Harhoff
Judge Flavia Lattanzi

Registrar: Mr John Hocking

Decision of: 22 December 2010

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

**DECISION ON PROSECUTION REQUEST FOR RECONSIDERATION OF
ORAL DECISION REGARDING DOCUMENTS ATTACHED TO THE
EARLIER STATEMENTS OF WITNESS ZORAN RANKIĆ RENDERED ON
1 DECEMBER 2010**

The Office of the Prosecutor

Mr Mathias Marcussen

The Accused

Mr Vojislav Šešelj

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”);

SEIZED of the Request filed publicly on 3 December 2010 by the Office of the Prosecutor (“Prosecution”) for reconsideration of the Oral Decision rendered publicly on 1 December 2010 concerning the documents attached to earlier statements of Witness Zoran Rankić, formerly VS-017 (“Decision of 1 December”)¹, insofar as it rejects the tendering into evidence of 65*ter* documents number 888, 1549 and 2578 (“Request”).²

NOTING the preceding motion filed publicly by the Prosecution, with a confidential annex, on 1 June 2010, for the Chamber to admit, based on Rule 89 (C) of the Rules of Procedure and Evidence, certain documents used in the course of earlier statements of witnesses Aleksandar Stefanović, Ljubiša Petković, Zoran Rankić, VS-034 and VS-037 (“Motion of 1 June”),³

NOTING the Oral Decision, rendered publicly on 21 September 2010, in which the Chamber admitted several earlier statements of Zoran Rankić pursuant to Rule 89 (C) of the Rules of Procedure and Evidence (“Decision of 21 September”),⁴

NOTING the Decision of 1 December in which the Chamber rejected the Prosecution’s request to tender into evidence 65 *ter* documents nos. 888, 1549 and 2578 on the grounds that these documents were neither mentioned nor commented on, in the earlier statements of Witness Zoran Rankić,⁵

¹ Hearing of 1 December 2010, French transcript (“T(F)”) 16497-16499 (“Decision of 1 December 2010”).

² “Prosecution’s Request for Reconsideration of Oral Decision of 1 December 2010 Denying Admission of 65 *ter* Documents 888, 1549 and 2578”, public, 3 December 2010 (“Request”).

³ “Prosecution’s Motion for Admission of Exhibits Associated with Previously Admitted or Tendered Witness Statements”, public with confidential annex, 1 June 2010 (“Motion of 1 June 2010”).

⁴ Hearing of 21 September 2010, T(F) 16373-16374 (“Decision of 21 September 2010”).

⁵ Decision of 1 December 2010.

CONSIDERING that the Accused failed to respond within the 14 days stipulated by Rule 126 *bis* of the Rules of Procedure and Evidence (“Rules”),⁶

CONSIDERING that, according to the Tribunal’s case-law, a Trial Chamber has an inherent power to reconsider its own decisions and receive a request for reconsideration if the moving party satisfies the Chamber of the existence of a clear error of reasoning in the impugned decision or of particular circumstances, new facts or new arguments, justifying its reconsideration in order to avoid injustice,⁷

CONSIDERING that the Chamber notes that the information contained in the Motion of 1 June and related to 65 *ter* documents no. 888, 1549 and 2578, was erroneous, that is, that they were commented on in the earlier statement of Witness Zoran Rankić of 19 September 2006 and that they therefore ought to be tendered into evidence⁸,

CONSIDERING that it seems, in light of the Request, that this information was erroneous,

CONSIDERING that, in its Decision of 1 December, the Chamber rejected the request to tender these documents into evidence based on the verification of erroneous information,

CONSIDERING that the Chamber, misled by an error contained in the Motion of 1 June, states, in light of the corrections provided by the Prosecution in its Request⁹ that these documents had, indeed, been commented on by Witness Zoran Rankić in the Second *Addendum* to the earlier statement of 10 November 2006, previously admitted by the Decision of 21 September,¹⁰

⁶ The Accused received the BCS translation of the Request on 8 December 2010 (see the record of receipt of the translation, filed on 10 December 2010).

⁷ *The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Borislav Pusić*, Case No. IT-04-74-T, Decision on Request for Reconsideration and Certification to Appeal the Decision for Admission of the Statement of Jadranko Prlić”, 8 October 2007, p. 11 (footnotes omitted); citing *The Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, “Decision on Defence’s Request for Reconsideration”, 16 July 2004, pp. 3-4.

⁸ Motion of 1 June 2010.

⁹ Request, par. 5.

¹⁰ Decision of 21 September 2010. The Second *Addendum* to the earlier statement of Zoran Rankić dated 10 November 2006 then bore 65 *ter* number 7542 and will from now on bear number P1076.

CONSIDERING that, consequently, the Chamber considers that an error exists in the Motion of 1 June which contains a particular circumstance that justifies reconsideration of its Decision of 1 December rejecting these documents,

CONSIDERING, moreover, that the Chamber believes that the documents commented on by the witnesses in their earlier statements constitute an integral part of their statements and that they form an indispensable and inseparable whole of these statements,

FOR THE FOREGOING REASONS

PURSUANT TO Rules 54 et 89 (C) of the Rules,

GRANTS the Prosecution's Request for reconsideration of the Oral Decision of 1 December,

ORDERS that 65 *ter* documents nos. 888, 1549 and 2578 used for Zoran Rankić be tendered into evidence,

ORDERS the Registry to assign to each of them an exhibit number and include them in the e-court system as exhibits attached to the Second *Addendum* to the earlier statement of Witness Zoran Rankić dated 10 November 2006, number P1076.

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

 /signed/

Jean-Claude Antonetti

Presiding Judge

Done this twenty-second day of December 2010

At The Hague

The Netherlands

[Seal of the Tribunal]