



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 October 2008
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 Hans Holthuis

Decision of: 1 October 2008

THE PROSECUTOR

v.

**Jadranko PRLIĆ
Bruno STOJIĆ
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ČORIĆ
Berislav PUŠIĆ**

PUBLIC

**DECISION ON PETKOVIĆ DEFENCE MOTION TO AMEND THE 65 *TER*
LIST OF EXHIBITS (6 DOCUMENTS)**

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 Čorić
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”),

SEIZED of “Milivoj Petković’s Motion to Add Exhibits to the Rule 65 *ter* (G) Exhibit List with Confidential Annex”, filed partly confidentially by Counsel for the Accused Milivoj Petković (“Petković Defence”) on 8 September 2008 (“Motion”), in which the Petković Defence requests the leave of the Chamber to add six documents (“Proposed Exhibits”¹) to the list of exhibits established pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“Rules”) filed on 31 March 2008 (“65 *ter* List”),

NOTING the “Addendum to Milivoj Petković’s Motion to Add Exhibits to the Rule 65 *ter* (G) Exhibits List with Confidential Annex, of 8 September 2008”, filed confidentially by the Petković Defence on 29 September 2008, in which the Petković Defence submits the English translation of Exhibit P 07663 to the Chamber,

CONSIDERING that neither the Prosecution nor the Prlić, Stojić, Praljak, Čorić or Pušić Defence teams filed a response to the Motion,

CONSIDERING that in support of the Motion, the Petković Defence asserts that the Proposed Exhibits are relevant and have probative value, in particular in respect of paragraphs 17.4, 215 and 216 of the second Amended Indictment dated 11 June 2008,²

CONSIDERING that the Petković Defence attributes the lateness of the motion to add the Proposed Exhibits to the 65 *ter* List to a misunderstanding and in particular to the fact that it believed, wrongly, that the Proposed Exhibits had already been admitted,³

CONSIDERING that the Petković Defence further notes that the Proposed Exhibits are not new exhibits since they were on the list of Prosecution exhibits filed by the Prosecution on 19 January 2006, that as a result the addition of the exhibits is not likely to cause prejudice to the Parties and that, moreover, two of the Proposed

¹ P 06828; P 06951; P 07505; P 07658; P 07663; P 10309.

² Motion, para. 3.

³ Motion, para. 4.

Exhibits, P 06828 and P 10309, were the subject of debates between the Parties in court,⁴

CONSIDERING that the Chamber wishes to remind the Parties that they should not upload into *ecourt* any documents that have not been listed on the 65 *ter* Lists and in future should provide, in support of any requests to add exhibits to the 65 *ter* Lists, the originals and translated documents on CD-Rom,

CONSIDERING that the Chamber recalls the “Decision Adopting Guidelines for the Presentation of Defence Evidence” rendered on 24 April 2008⁵ and more specifically Guideline 8 thereof which stipulates that in order for a request to add an exhibit to the 65 *ter* List to be granted, the Parties concerned are required to file with the Chamber, prior to the appearance of the witness through whom it intends to present the exhibit, a request to add the exhibit to the 65 *ter* (G) List, and to provide the reasons why the exhibit is essential to the case and the reasons why it was not on the list filed pursuant to Rule 65 *ter* (G) of the Rules,

CONSIDERING, in principle, that when dealing with a request to add exhibits to the 65 *ter* List, the Chamber will always carry out a *prima facie* examination of the reliability, relevance and probative value of the documents before it,

CONSIDERING that in this case, the Chamber holds that *prima facie* the Proposed Exhibits have a degree of reliability, relevance and probative value,

CONSIDERING that in spite of the Petković Defence’s oversight, the Chamber accepts the addition of the Proposed Exhibits to the 65 *ter* List since the Motion was filed several months before the beginning of the Petković Defence case and since no prejudice is alleged by the Parties,

CONSIDERING that as a result, the Chamber grants the Motion and authorises the Petković Defence to add Exhibits P 06828, P 06951, P 07505, P 07658, P 07663 and P 10309 to the 65 *ter* List,

FOR THESE REASONS

⁴ Motion, para. 6.

⁵ Decision Adopting Guidelines for the Presentation of Defence Evidence, 24 April 2008.

IN ACCORDANCE WITH Rules 54, 65 *ter* and 89 (C) of the Rules,

GRANTS the Motion and

AUTHORISES the Petković Defence to add Exhibits P 06828, P 06951, P 07505, P 07658, P 07663 and P 10309 to the 65 *ter* List.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this first day of October 2008
At The Hague
The Netherlands

[Seal of the Tribunal]