



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: 22 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

**Registrar:** Mr Hans Holthuis

**Decision of:** 22 April 2009

**THE PROSECUTOR**

v.

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

***PUBLIC***

**DECISION ON BRUNO STOJIĆ'S MOTION FOR RECONSIDERATION OF  
THE ORDER ON THE ADMISSION OF EVIDENCE RELATED TO  
WITNESS ANTE KVESIĆ**

**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”),

**SEIZED** of Bruno Stojić’s Motion for Reconsideration, in part, of the Order on the Admission of Evidence related to witness Ante Kvesić, submitted on 12 March 2009 (“Motion”) and filed publicly on 27 March 2009 by Counsel for the Accused Stojić (“Stojić Defence”), in which the Stojić Defence requests the Trial Chamber to reconsider its decision to deny the filing of Exhibits 2D 02019 and P 03355,<sup>1</sup>

**NOTING** the Corrigendum to Bruno Stojić’s Motion for Reconsideration, in part, of the Order on the Admission of Evidence related to witness Ante Kvesić, dated 12 March 2009 (“Corrigendum”), publicly filed on 27 March 2009 by the Stojić Defence,

**NOTING** the Order on the Admission of Evidence related to witness Ante Kvesić filed publicly on 12 March 2009 (“Order of 12 March 2009”) by which the Trial Chamber denied the admission of, firstly, Exhibit 2D 02019, as the exhibit was not included in the list of exhibits filed on 31 March by the Stojić Defence (“65 ter List”) pursuant to Rule 65 ter of the Rules of Procedure and Evidence (“Rules”), and, secondly, Exhibit P 03355, as the Stojić Defence had not specified the page numbers of the document it was tendering for admission,<sup>2</sup>

**CONSIDERING** that the Office of the Prosecutor (“the Prosecution”) and the other Defence teams have not filed a response to the Motion,

**CONSIDERING** that in support of the Motion, the Stojić Defence firstly acknowledges that Exhibit 2D 02019 was not on the 65 ter List, but submits that its contents were in fact listed because the said Exhibit is an excerpt taken from Exhibit 2D 00923 that was included in the Stojić Defence’s 65 ter list,<sup>3</sup>

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<sup>1</sup> Motion, para. 1.

<sup>2</sup> Order of 12 March 2009. The Trial Chamber dismisses as moot the request for admission of Exhibit P 03355, with reference to page 11 of the BCS version and page 20 of the English version, as these two pages had previously been admitted under the Order on the Admission of Evidence related to witness Stipo Buljan, publicly filed on 10 March 2009.

<sup>3</sup> Motion, paras. 4 and 5.

**CONSIDERING** that the Stojić Defence further alleges that the error attributed to its team did not prejudice the other Parties in that the Parties and the Chamber had been aware of the contents of the said Exhibit since the date of filing of the 65 ter List, notably 31 March 2009, and that neither the Prosecution nor the other Defence teams raised any objection with respect to the request for admission of Exhibit 2D 02019 filed by the Stojić Defence,<sup>4</sup>

**CONSIDERING** that by way of its Motion the Stojić Defence further acknowledges that it neglected to specify the page numbers it was seeking to admit with respect to Exhibit P 03355 and that it corrects this omission in the Motion, specifying its request for admission of pages 26, 27, 36 and 37 of the BCS version and pages 23, 24, 35 and 36 of the English version of the Exhibit,<sup>5</sup>

**CONSIDERING** that a Trial Chamber has the inherent power to reconsider its own decisions and that it may grant a motion for reconsideration if the requesting party demonstrates to the Chamber the existence of a clear error of reasoning in the impugned decision or particular circumstances, being either new facts or arguments,<sup>6</sup> which justify its reconsideration in order to avoid injustice,<sup>7</sup>

**CONSIDERING** that the Chamber recalls the Decision Regarding Requests filed by the Parties for Reconsideration of Decisions by the Chamber, rendered publicly on 26 March 2009 (“Decision of 26 March 2009”), in which, in order to ensure the orderly progress of trial, it defines the context applicable to motions for reconsideration. The Chamber emphasizes, however, that the Decision is not applicable to decisions rendered prior to its publication, notably the Decision referred to in the Motion,

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<sup>4</sup> Motion, paras. 4-6.

<sup>5</sup> Motion, para. 9.

<sup>6</sup> *Prosecutor v. Stanislav Galić*, case no. IT-98-29-A, Decision on Defence Motion for Reconsideration of 16 July 2004, pp. 3 and 4 and quoting *Prosecutor v. Laurent Semanza*, case no. ICTR-97-20-T, Trial Chamber III, Decision on Defence Motion to Reconsider Denying Leave to Call Rejoinder Witnesses, 9 May 2002, para.8.

<sup>7</sup> *Prosecutor v. Stanislav Galić*, case no. IT-98-29-A, Decision on Defence Motion for Reconsideration of 16 July 2004, pp. 3 and 4 and quoting *Prosecutor v. Zdravko Mucić et al.*, case no. IT-96-21A-bis, Judgement on Sentence Appeal, 8 April 2003, para.49; *Prosecutor v. Popović et al.* case no. IT-05-88-T, Decision on Defence Motion for Certification to Appeal Decision Admitting Written Evidence pursuant to Rule 92 bis, 19 October 2006, p.4.

**CONSIDERING** that, according to the Chamber's guidelines for the presentation of defence evidence,<sup>8</sup> the parties must specify the *ecourt* pages of the documents presented to the witness in court which it is seeking to tender and may not request the admission in full of excessively voluminous documents, with the exception of laws and decrees,

**CONSIDERING** that, having analysed Exhibit P 03355 in the light of the clarification provided in the Motion by the Stojić Defence, the Chamber deems that the Exhibit now meets the criteria for admission set out in the Decision of 24 April 2008;<sup>9</sup> that it is appropriate to reconsider, on an exceptional basis, the denial of Exhibit P 03355 and the admission, in the interests of justice, of pages of 26, 27, 36 and 37 of the BCS version, and pages 23, 24, 35 and 36 of the English version of the Exhibit on the *ecourt* system,

**CONSIDERING** that the Chamber further recalls that paragraph 26 of the Decision of 24 April stipulates that the requesting party may only request the admission of exhibits on the 65 ter List,<sup>10</sup>

**CONSIDERING** that the Chamber takes note of the explanations provided by the Stojić Defence with regard to Exhibit 2D 02019 in support of its Motion; that it notes, however, that the Stojić Defence did not request the Exhibit to be added to the 65 ter List either during the hearing on 25 February 2009 nor in its Motion, and finds, therefore, that there is no basis, in this instance, to reconsider the denial of Exhibit 2D 02019 and that it is therefore appropriate to deny the Motion with reference to this Exhibit,

**FOR THE FOREGOING REASONS**, the Chamber

**PURSUANT TO** Rules 54 and 89 of the Rules,

**HEREBY PARTIALLY GRANTS** the Motion,

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<sup>8</sup> Decision Adopting Guidelines for the Presentation of Defence Evidence, 24 April 2008 ("Decision of 24 April 2008"), para. 30.

<sup>9</sup> Decision of 24 April 2008, Guideline 8, para. 30.

<sup>10</sup> Decision of 24 April 2008, Guideline 8, para. 26.

**DECIDES** to admit into evidence pages 26, 27, 36 and 37 of the BCS version and pages 23, 24, 35 and 36 of the English version of Exhibit P 03355,

**AND**

**DENIES** the Motion with respect to Exhibit 2D 02019 for the reasons outlined in this Decision.

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

*/signed/*

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Jean-Claude Antonetti  
Presiding Judge

Done this twenty-second day of April 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**