



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: 29 June 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

Decision of: 29 June 2009

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON PRLIĆ DEFENCE MOTION FOR RECONSIDERATION OF
THE DECISION ON ADMISSION OF DOCUMENTARY EVIDENCE**

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

I. INTRODUCTION

1. 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”), is seized of “Jadranko Prlić’s Motion for Reconsideration of the Decision on Prlić Defence Motion for Admission of Documentary Evidence”, filed confidentially by Counsel for the Accused Prlić (“Prlić Defence”) on 8 May 2009 (“Motion”), to which eleven confidential Annexes are attached.

II. PROCEDURAL BACKGROUND

2. On 6 March 2009, the Chamber rendered the “Decision on Prlić Defence Motion for Admission of Documentary Evidence” (“Decision of 6 March 2009”) in which the Chamber rejected some of the 1135 documents requested for admission by the Prlić Defence on the grounds that (1) the source of some exhibits offered for admission was not disclosed to the Chamber or to the other parties, thereby making it impossible to assess their reliability and authenticity;¹ (2) some proposed exhibits without headings, stamps or signatures do not contain sufficient indicia of reliability and authenticity;² (3) some proposed exhibits relate to municipalities outside the scope of the Amended Indictment of 11 June 2008 (“Indictment”) and the Prlić Defence had not provided explanations on their relevance;³ and finally (4) some proposed exhibits were videos for which the Prlić Defence only provided transcriptions, which do not allow the Chamber to verify their accuracy.⁴ The Prlić Defence asks the Chamber to reconsider this decision as it relates to the exhibits it refused to admit (“Exhibit(s)”).

3. On 19 May 2009, the Office of the Prosecutor (“Prosecution”) confidentially filed the “Prosecution Response to Jadranko Prlić’s Motion for Reconsideration of

¹ Decision of 6 March 2009, paras 20 to 26 and the Annex.

² Decision of 6 March 2009, para. 28 and the Annex.

³ Decision of 6 March 2009, para. 29 and the Annex.

⁴ Decision of 6 March 2009, paras 30 and 31 and the Annex.

the Decision on Prlić Defence Motion for Admission of Documentary Evidence”. However, it withdrew it during the hearing of 20 May 2009.⁵

4. On 22 May 2009, the Prosecution confidentially filed the “Prosecution Response to Jadranko Prlić’s Motion for Reconsideration of the Decision on Prlić Defence Motion for Admission of Documentary Evidence” (“Response”).

5. During the hearing of 8 June 2009, the Chamber requested that the Prlić Defence explain why the witnesses who testified in open session without any protective measures had, according to the Prlić Defence, refused to have it revealed that the fact that they provided certain documents to the Prlić Defence which were the subject of the Decision of 6 March 2009, would now accept that their connection with the documents in question, and thus their identities, be revealed.⁶

6. On 10 June 2009, the Prlić Defence confidentially filed “Jadranko Prlić’s Supplemental Submission to his 8 May 2009 Motion for Reconsideration Pursuant to the Trial Chamber’s Oral Instructions of 8 June 2009”, in which it explains in part the reasons why the identity of its sources could not and may not be revealed without the consent of the said sources (“Submission of 10 June 2009”). However, the Prlić Defence does not respond to the specific question asked by the Chamber.

7. On 12 June 2009, the Prosecution confidentially filed the “Prosecution Response to Prlić’s Supplemental Submissions to his 8 May Motion for Reconsideration Pursuant to the Trial Chamber Oral Instruction of 8 June 2009” (“Response to the Submission of 10 June 2009”).

⁵ Hearing of 20 May 2009, Transcript in French (“T(F)”), pp. 40396 and 40397.

⁶ Hearing of 8 June 2009, T(F) pp. 41289-41290 (private session).

III. ARGUMENTS OF THE PARTIES

8. In support of the Motion, and concerning the Exhibits that were rejected for a lack of explanation as to their relevance to the Indictment, the Prlić Defence submits that in addition to indicating the relevant paragraphs of the Indictment, the Chamber imposes a new rule on it by requiring that it also explain how the Exhibits relate to the Indictment.⁷ Nevertheless, regarding this issue, the Prlić Defence supplements the arguments that it had submitted in its written submissions on the Decision of 6 March 2009,⁸ in Annex II attached to the Motion.

9. With regards to the Exhibits that were rejected for their lack of sufficient indicia of reliability, the Prlić Defence takes issue with the Chamber's request that it provide definite proof of the reliability of the Exhibits when it had at least shown sufficient indicia of reliability.⁹ However, in Annexes I and V attached to the Motion, it supplements its arguments on this issue with as previously submitted in its written submissions on the Decision of 6 March 2009.

10. With regards to the Exhibits whose source was not disclosed to the Chamber or the other parties, the Prlić Defence distinguishes three different categories. On the one hand the Prlić Defence recognises having involuntarily failed to indicate the source of some Exhibits and rectifies this omission in Annex I attached to the Motion.¹⁰ On the other hand, the Prlić Defence maintains its position that the identity of some of the sources that provided certain Exhibits must be kept secret from both the Chamber and the other parties. The Prlić Defence maintains that it pledged to respect the anonymity of the persons or entities that provided it with the Exhibits in question and that under these conditions, Rule 70 of the Rules of Procedure and Evidence ("Rules") should apply in this case.¹¹ The Prlić Defence adds that the Chamber was short-sighted when it implied that the Prlić Defence had not respected the provisions of Rule 75 of the Rules when requesting that

⁷ Motion, paras 1 to 5.

⁸ "Jadranko Prlić's Public Revised Version of the Motion for the Admission of Documentary Evidence", 28 January 2009 ("Initial Motion") and "Jadranko Prlić's Request for Leave to Reply and Reply to Prosecution Response to Jadranko Prlić's (1) Motion for Admission of Documentary Evidence and (2) Motion for Protective Measures of Certain Documents and Additional Classification of Certain Subjects Included in the Motion for Admission of Documentary Evidence", 28 January 2009.

⁹ Motion, paras 6 and 7.

¹⁰ Motion, para. 8.

¹¹ Motion, para. 10; Submission of 10 June 2009.

protective measures be granted for these sources when, according to the Prlić Defence, it had clearly explained the inherent risk of revealing the identity of these sources.¹² The Prlić Defence further notes that many Prosecution documents were admitted even though the Prosecution had merely indicated that they originated from the “authorities of Bosnia and Herzegovina” without any additional precision, and submits that there is no difference between admitting these documents and admitting those whose source must remain confidential.¹³ Finally, the Prlić Defence states that it has been able to persuade several sources to permit their identity to be disclosed or has been able to persuade several persons to verify the source of the documents on the basis of their official knowledge of their origin¹⁴ and provides the statements of these persons in Annex IX attached to the Motion.

11. Finally, the Prlić Defence submits a few more specific arguments in Annex I attached to the Motion. With regards to Exhibit 1D 01220, the Chamber, according to the Prlić Defence, erred in finding that the original and the translation did not correspond. The Prlić Defence submits that, even if another translation exists, the text of the Exhibit in question here has been translated in full and that this translation was provided by CLSS.

12. With regards to Exhibits 1D 01367, 1D 01435 and 1D 02313, the Prlić Defence submits that the Chamber erred in rejecting these Exhibits on the ground that their source was not disclosed. It submits that the Initial Motion indicated that the source of Exhibits 1D 01367 and 1D 01435 was the Archives of the RBiH, and that the source of Exhibit 1D 02313 was the Croatian Military Archives.

13. With regards to Exhibit 1D 01423, the Prlić Defence submits that the Chamber erred in rejecting it on the ground that it did not present, in the absence of a date, sufficient indicia of reliability. It submits that the Exhibit should be admitted and that the issue of its reliability must be considered in tandem with an assessment of its probative value.

14. With regards to Exhibit 1D 02843, the Prlić Defence submits that contrary to what the Chamber considered, the source of this document, namely the Prlić

¹² Motion, para. 12.

¹³ Motion, para. 13.

¹⁴ Motion, para. 14.

Defence itself, was mentioned in the Initial Motion and explains how this document was drawn up.

15. With regards to Exhibit 1D 02304, the Prlić Defence explains that it is unable to provide the original supporting material of the document, as the audio recordings of the presidential meetings of the RBiH do not exist, just like those of presidential transcripts already admitted by the Chamber.

16. With regards to Exhibit 1D 02347, the Prlić Defence argues that the Chamber was mistaken as to the technical medium of the document, which is not a television recording but an audio recording of a radio programme, and provides in Annex IX-I a statement from Mijo Kelava, a journalist with Radio Herceg-Bosna in 1993, attesting to the authenticity of the re-transcription.

17. With regards to Exhibits 1D 02233 and 1D 02359, the Prlić Defence notes firstly that these documents are press articles and not videos as was indicated in the Decision of 6 March 2009. It argues subsequently that the fact that the Exhibits do not bear a date should not be an obstacle to their admission, but that the issue of their reliability should be examined when their probative value is being assessed.

18. With regards to Exhibits 1D 02457, 1D 02070, 1D 02071, 1D 02072, 1D 02078, 1D 02228, 1D 02229, 1D 02230, 1D 02488, 1D 02489, 1D 02490, 1D 02491, 1D 02492, 1D 02493, 1D 02494, 1D 02495, 1D 02497, 1D 02498, 1D 02499, 1D 02500, 1D 02501, 1D 02502, 1D 02504, 1D 02505, 1D 02506, 1D 02507, 1D 02508, 1D 02511, 1D 02512, 1D 02514 and 1D 02515, which are videos, the Prlić Defence objects to the fact that the Chamber rejected these Exhibits on the grounds that they did not have a source or a date, and points out that the Chamber had already admitted videos that did not have a date or a source, notably by the Decision on the Prosecution Motion for Admission of Documentary Evidence (two motions: HVO and Herceg-Bosna) of 11 December 2007.

19. Finally, with regards to Exhibits 1D 00912, P 08411, 1D 00187, 1D 00055, 1D 00056, 1D 00059, 1D 00067, 1D00177, 1D 00178 and 1D 00179, the Prlić Defence corrected the technical errors it had committed and requests that the Chamber reconsider the Exhibits in light of these corrections.

20. In its Response, the Prosecution submits that by failing to explain how the Exhibits relate to the Indictment, the Prlić Defence simply failed to respect Guideline 9 (a) (vi)¹⁵ and did not indicate the reasons why it considers the document in question important for the determination of the case. The Prosecution notes that in this respect, the Prlić Defence is attempting to elevate form over substance.¹⁶

21. The Prosecution further submits that the Chamber has always systematically applied the criteria for the admissibility of evidence that it had set out and that the Chamber cannot bend its criteria for the admissibility of evidence at this stage of the trial and be satisfied with a mere presumption of reliability as the Prlić Defence submits.¹⁷

22. With regards to the anonymity of the sources of some Exhibits, the Prosecution notes that the Prlić Defence simply reiterates the arguments that it had submitted in its written submissions regarding the Decision of 6 March 2009 and repeats its own arguments.¹⁸ It also notes that the Defence is seeking to equate an anonymous source with the “authorities of Bosnia and Herzegovina” and recalls that the Tribunal’s case-law accepts the admission of documents originating from national archives or produced by a State.¹⁹

23. The Prosecution notes moreover that amongst the 17 sources whose identity has now been revealed by the Prlić Defence, five are in fact defence witnesses who testified in open court for the Prlić Defence and that the Prlić Defence did not provide any explanation as to why these Exhibits were not tendered into evidence while these witnesses testified or why the identity of these witnesses should not be revealed to the Chamber and to the other parties. The Prosecution considers that this lack of transparency casts doubt on these Exhibits.²⁰

¹⁵ “Decision Adopting Guidelines for the Presentation of Defence Evidence”, 24 April 2008.

¹⁶ Response, para. 3.

¹⁷ Response, para. 4.

¹⁸ Response, para. 5.

¹⁹ Response, para. 6.

²⁰ Response, para. 7.

24. Finally, the Prosecution does not oppose reconsideration by the Chamber of its decision regarding the Exhibits for which the Prlić Defence simply failed to disclose the source.²¹

IV. DISCUSSION

A. Applicable Law

25. A Trial Chamber has the inherent power to reconsider its own decisions. It may allow a request for reconsideration if the requesting party demonstrates to the Chamber that the impugned decision contains a clear error of reasoning or that particular circumstances, which can be new facts or arguments,²² justify its reconsideration in order to avoid injustice.²³

B. Consideration of the Admissibility of the Motion for Reconsideration

26. As a preliminary matter, the Chamber wishes to point out that it has taken into consideration all of the reasons put forth in support of the Motion; that in the Decision of 6 March 2009, certain Exhibits were rejected on several grounds; that the Prlić Defence presents arguments in respect of each of them; that if the Chamber considers that the arguments submitted by the Prlić Defence in respect one of the grounds do not allow for reconsideration of the exhibit that was rejected, the Chamber will not consider the other arguments put forth by the Prlić Defence in support of reconsideration.

27. With regards to the Exhibits that were rejected for a lack of explanations about their relevance to the Indictment, the Chamber notes that the Prlić Defence firstly challenges to the Decision of 6 March 2009 as it relates to the Exhibits, yet it fails

²¹ Response, para. 9.

²² *The Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, “Decision on Defence’s Request for Reconsideration”, 16 July 2004, pp. 3 and 4, citing *The Prosecutor v. Laurent Semanza*, Case No. ICTR-97-20-T, Trial Chamber III, “Decision on Defence Motion to Reconsider Decision Denying Leave to Call Rejoinder Witnesses”, 9 May 2002, para. 8.

²³ *The Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, “Decision on Defence’s Request for Reconsideration”, 16 July 2004, pp. 3 and 4, citing in particular, *The Prosecutor v. Zdravko Mucić et al.*, Case No. IT-96-21A^{bis}, Appeals Judgement on Sentence, 8 April 2003, para. 49; *The 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.

to provide proof of a clear error committed by the Chamber, and subsequently adds to the arguments that it had previously submitted without demonstrating the existence of particular circumstances that would justify a reconsideration, such as the existence of new facts that it was unable to present in the Initial Motion. The Chamber therefore decides to deny the motion for reconsideration in respect of these Exhibits.

28. With regards to the Exhibits that were rejected for a lack of sufficient indicia of reliability, the Chamber likewise notes that the Prlić Defence is merely challenging the Decision of 6 March 2009 as it relates to the Exhibits, without providing proof of a clear error committed by the Chamber, and adds to the arguments that it had submitted previously without demonstrating the existence of particular circumstances that would justify a reconsideration. The Chamber therefore decides to deny the motion for reconsideration in respect of these Exhibits.

29. With regards to Exhibits 1D 00541, 1D 01556, 1D 00444, 1D 00465, 1D 01141, 1D 00784, 1D 00816, 1D 00006, 1D 00033, 1D 00037, 1D 00040, 1D 00143 and 1D 02435, for which the Prlić Defence forgot to indicate the sources, , the Chamber notes that the Prlić Defence now indicates what the sources of these documents are and considers that this justifies a reconsideration of the Decision of 6 March 2009 as it relates to them.

30. With regards to those Exhibits whose source was not disclosed to the Chamber or to the other parties, the Chamber wishes to remind the Prlić Defence once again that Rule 70 (B) and (F) of the Rules, which the Prlić Defence strictly cites in the Motion, in the Submission of 10 June 2009 and in the written submission on the Decision of 6 March 2009, specifically stipulates that information collected confidentially and its source shall not under any circumstances be used as evidence without prior disclosure to the parties. Contrary to what the Prlić Defence argues, neither the case-law nor the Rules provide for the possibility of introducing evidence without prior disclosure of their source to the other parties and the Chamber. The Chamber further wishes to recall that the Prlić Defence was clearly informed by the Chamber that it could not request the admission of the exhibits

without disclosing their source to the Chamber and to the other parties.²⁴ However, the Prlić Defence persisted in its wish to present the documents in this manner.

31. With regards to the Exhibits whose sources the Prlić Defence still maintains cannot be disclosed, the Chamber notes that the Prlić Defence reiterates the same arguments that it put forward in its written submissions on the Decision of 6 March 2009, and that the Prlić Defence neither provided proof that the Chamber committed a clear error nor demonstrated the existence of particular circumstances justifying reconsideration. The Chamber therefore decides to deny the motion for reconsideration in respect of these Exhibits.

32. With regards to the Exhibits whose source has now been revealed by the Prlić Defence, the Chamber is surprised to note that of the sources whose identity has been revealed, five are witnesses who appeared for the Prlić Defence in open court, without any protective measures. The Chamber is not satisfied with the explanation given by the Prlić Defence in the Submission of 10 June 2009 following a specific request by the Chamber regarding this issue.²⁵ Indeed, the Prlić Defence has not provided any new or specific explanations regarding this issue. The Chamber therefore considers that the Prlić Defence has failed to provide any proof of a clear error committed by the Chamber and that it merely reiterates the arguments that it had submitted previously. The Chamber further considers that the Prlić Defence cannot argue that revealing the identity of its sources constitutes particular circumstances justifying reconsideration; that quite to the contrary, the Chamber clearly called on the Prlić Defence to identify all the sources of the Exhibits, and did so even before rendering the Decision of 6 March 2009; that the present Motion demonstrates on the contrary that the Prlić Defence would have been able to provide the identity of these sources in the Initial Motion; that the Chamber therefore decides to deny the motion for reconsideration with respect to these Exhibits and will render a specific decision on this issue.

²⁴ “Decision on Prlić Defence Motion for the Admission of Documentary Evidence”, 19 December 2008.

²⁵ Hearing of 8 June 2009, T(F) pp. 41289-41290 (private session): the Chamber recalls that it specifically requested that the Prlić Defence explain why the witnesses who testified in open session without any protective measures had refused to have it revealed that they provided certain documents to the Prlić Defence, which were the subject of the Decision of 6 March 2009, now accept that their connection with the documents in question, and thus their identities, be revealed.

33. With regards to Exhibit 1D 01220, the Chamber notes that the original in B/C/S in *ecourt* contains only a single decision, whereas the English translation contains the text of two decisions and differs in its presentation. The Chamber therefore considers that it did not err by rejecting this exhibit on the ground that the original and the translation do not correspond, and denies the motion for reconsideration in respect of these Exhibits.

34. With regards to Exhibits 1D 01367, 1D 01435 and 1D 02313, the Chamber considers, like the Prlić Defence, that their sources were indeed mentioned in the Initial Motion. Having erred, the Chamber therefore considers that this justifies a reconsideration of the Chamber's decision as it relates to them.

35. With regards to Exhibit 1D 01423, the Chamber notes that the Prlić Defence merely challenges to the Chamber's decision relating to it, without providing proof that the Chamber committed a clear error and without demonstrating the existence of particular circumstances that would justify reconsideration. The Chamber therefore decides to deny the motion for reconsideration in respect of this Exhibit.

36. With regards to Exhibit 1D 02843, the Chamber notes, like the Prlić Defence, that the Prlić Defence had indeed indicated in the Initial Motion that it was the author of the Exhibit in question. Having erred, the Chamber decides to reconsider its decision regarding Exhibit 1D 02843.

37. With regards to Exhibit 1D 02304, which is a transcript of a meeting of the RBiH Presidency, and for which the Prlić Defence informs the Chamber that there is no audio recording, the Chamber deems that, under these circumstances, the Chamber's decision concerning it should be reconsidered.

38. With regards to Exhibit 1D 02347, the Chamber takes into consideration the argument of the Prlić Defence according to which the medium for this Exhibit is not a television recording, as the Chamber implied in its Decision of 6 March 2009, but an audio recording. Having erred, the Chamber decides to reconsider its decision regarding this Exhibit.

39. With regards to Exhibits 1D 02233 and 1D 02359, the Chamber notes that these are press articles and not videos as it may have indicated in the Decision of 6

March 2009. Having erred, the Chamber decides to reconsider its decision regarding these Exhibits.

40. With regards to Exhibits 1D 02457, 1D 02070, 1D 02071, 1D 02072, 1D 02078, 1D 02228, 1D 02229, 1D 02230, 1D 02488, 1D 02489, 1D 02490, 1D 02491, 1D 02492, 1D 02493, 1D 02494, 1D 02495, 1D 02497, 1D 02498, 1D 02499, 1D 02500, 1D 02501, 1D 02502, 1D 02504, 1D 02505, 1D 02506, 1D 02507, 1D 02508, 1D 02511, 1D 02512, 1D 02514 and 1D 02515, the Chamber notes that, in other decisions pursuant to Guideline 6, it had admitted videos that did not have a source or a date.²⁶ However, the Chamber considers that it did not err when it decided to reject these Exhibits, but rather when it had previously admitted videos that did not have a source or a date pursuant to Guideline 6. The Chamber therefore decides to deny the motion for reconsideration as it relates to these Exhibits.

41. With regards to Exhibits 1D 00912, P 08411, 1D 00187, 1D 00055, 1D 00056, 1D00059, 1D 00067, 1D00177, 1D 00178 and 1D 00179, the Chamber notes that the Prlić Defence has rectified the technical errors related to them, and considers that this justifies a reconsideration of the Decision of 6 March 2009 as it relates to them.

C. Consideration of the Admissibility of the Reconsidered Exhibits

42. The Chamber therefore decides to reconsider the Decision of 6 March 2009 as it relates to Exhibits 1D 00541, 1D 01556, 1D 00444, 1D 00465, 1D 01141, 1D 00784, 1D 00816, 1D 00006, 1D 00033, 1D 00037, 1D 00040, 1D 00143, 1D 02435, 1D 01367, 1D 01435, 1D 02313, 1D 02843, 1D 02304, 1D 02347, 1D 02233, 1D 02359, 1D 00912, P 08411, 1D 00187, 1D 00055, 1D 00056, 1D 00059, 1D 00067, 1D00177, 1D 00178 and 1D 00179.

43. The Chamber recalls that, at this stage of the trial, it will only consider the admissibility of the Exhibits whose admission has been reconsidered, and need not make a final assessment of their probative value. It will only do so at the end of the trial, when all the prosecution and defence evidence will have been admitted into

²⁶ Guideline 6 of the “Revised Version of the Decision Adopting Guidelines on Conduct of Trial Proceedings”, rendered by the Chamber on 28 April 2006 (“Guideline 6”)

the record. During this assessment, the Chamber will notably take into account the fact that inconsistencies may exist between the exhibits; that the Prosecution objects to the interpretation given to them by the Prlić Defence or to their authenticity; that certain information is hearsay and that the Prosecution did not have an opportunity to test the Exhibits during cross-examination.

44. In light of the information provided and the corrections made by the Prlić Defence in the Motion and the objections raised by the Prosecution in its Response and in its written submissions regarding the Decision of 6 March 2009,²⁷ the Chamber decides to admit the Exhibits marked as “Admitted” in the annex attached to this decision since they present sufficient indicia of reliability, relevance and probative value with regards to the Indictment and that, consequently, they should be admitted.

45. Finally, the Chamber rejects the Exhibits marked as “Not Admitted” in the annex attached to this motion, and specifies the grounds for the rejection in the same annex for each of the Exhibits.

²⁷ “Prosecution Response to Jadranko Prlić’s (1) Motion for Admission of Documentary Evidence and (2) Motion for Protective Measures of Certain Documents & Additional Classification of Certain Subjects Included in the Motion for Admission of Documentary Evidence”, 20 January 2009.

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 89 of the Rules,

GRANTS the Motion in part,

DECIDES to admit into evidence the Exhibits marked as “Admitted” in the Annex attached to this decision, **AND**

DENIES the Motion in all other respects.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-ninth day of June 2009
At The Hague
The Netherlands

[Seal of the Tribunal]

ANNEX

Proposed Exhibits	Admitted/Not Admitted/ Moot
1D 00006	Not Admitted (The Chamber finds that the arguments of the Prlić Defence do not establish a link between the Exhibit and the Indictment)
1D 00033	Admitted
1D 00037	Not Admitted (The Chamber finds that the arguments of the Prlić Defence do not establish a link between the Exhibit and the Indictment)
1D 00040	Admitted
1D 00055	Admitted
1D 00056	Not Admitted (The Chamber finds that the arguments of the Prlić Defence do not establish a link between the Exhibit and the Indictment)
1D 00059	Admitted
1D 00067	Admitted
1D 00143	Admitted
1D00177	Not Admitted (The Chamber finds that the arguments of the Prlić Defence do not establish a link between the Exhibit and the Indictment)
1D 00178	Admitted
1D 00179	Not Admitted (The Chamber finds that the arguments of the Prlić Defence do not establish a link between the Exhibit and the Indictment)
1D 00187	Not Admitted (The Chamber finds that the arguments of the Prlić Defence do not establish a link between the Exhibit and the Indictment)
1D 00444	Admitted
1D 00465	Admitted
1D 00541	Admitted
1D 00784	Not admitted. (The Chamber finds that the Exhibit does not present sufficient indicia of reliability (the original document in BCS does not bear an official heading, signature or stamp))
1D 00816	Admitted
1D 00912	Not Admitted (the Chamber finds that the Exhibit does not present sufficient indicia of reliability: it does not bear a date)
1D 01141	Not Admitted (The Chamber finds that the arguments of the Prlić Defence do not establish a link between the Exhibit and the Indictment)
1D 01367	Admitted
1D 01435	Admitted
1D 01556	Admitted
1D 02233	Not Admitted (the Chamber finds that the Exhibit does not present sufficient indicia of reliability: it does not bear a date and the document's source does not appear)
1D 02304	Admitted
1D 02313	Not Admitted (the Chamber finds that the Exhibit does not present sufficient indicia of reliability: it does not bear a signature or a stamp)
1D 02347	Not Admitted (Without an audio recording of the interview, the Chamber is unable to verify the authenticity and reliability of the re-transcription of what is stated)
1D 02359	Not Admitted (the Chamber finds that the Exhibit does not present sufficient indicia of reliability: it does not bear a date and the document's source does not appear)

1D 02435	Admitted
1D 02843	Admitted
P 08411	Not Admitted (The Chamber finds that the Prlić Defence arguments did not establish a link between the Exhibit and the Indictment)