

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-04-74-T

IN TRIAL CHAMBER III

**Before: Judge Jean-Claude Antonetti, Presiding
Judge Árpád Prandler
Judge Stefan Trechsel
Reserve Judge Antoine Kesia-Mbe Mindua**

Registrar: Hans Holthuis

Date filed: 12 September 2007

**THE PROSECUTOR
v.
JADRANKO PRLIĆ
BRUNO STOJIĆ
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ĆORIĆ
and BERISLAV PUŠIĆ**

PUBLIC FILING

**JOINT DEFENCE RESPONSE TO PROSECUTION MOTION FOR ADMISSION
OF DOCUMENTARY EVIDENCE (HELIODROM CAMP)**

The Office of the Prosecutor

Mr. Kenneth Scott
Mr. Daryl Mundis

Counsel for Jadranko Prlić

Mr. Michael G. Karnavas
Ms. Suzana Tomanović

Counsel for Bruno Stojić

Ms. Senka Nožica
Mr. Peter Murphy

Counsel for Slobodan Praljak

Mr. Božidar Kovačić
Ms. Nika Pinter

Counsel for Milivoj Petković

Ms. Vesna Alaburić
Mr. Nicholas Stewart QC

Counsel for Valentin Ćorić

Ms. Dijana Tomašegović-Tomić
Mr. Dražen Plavec

Counsel for Berislav Pušić

Mr. Fahrudin Ibrišimović
Mr. Roger Sahota

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

CASE NO. IT-04-74-T

PROSECUTOR V. JADRANKO PRLIĆ ET AL

**JOINT DEFENCE RESPONSE TO PROSECUTION MOTION FOR ADMISSION
OF DOCUMENTARY EVIDENCE (HELIODROM CAMP)**

1. The Defence submits the following response to the Prosecution's Motion for Admission of Documentary Evidence (Heliodrom Camp) ("Heliodrom Motion").
2. The Defence opposes the admission of the documents that form the subject matter of the motion and asks the Trial Chamber to exclude this material on the grounds that admission would violate the guidelines in place governing the admission of evidence in this case and more generally the right of the Accused to a fair trial.
3. The Defence adopts the submissions made previously in response to other Prosecution applications for the admission of documentary evidence, including the Defence Response to the Prosecution's Motion for the Admission of Documentary Evidence (Ljubuški Municipality including the HVO Ljubuški prison and Vitina-Otok Camp) filed on 12th June 2007, the Defence Response to the Prosecution's Motion for the Admission of Documentary Evidence (Jablanica Municipality) filed on the 12th March 2007, and the Response to the Prosecution Motion for Admission of Documentary Evidence (Čapljina and Stolac Municipalities) filed on the 12th July 2007. In these and many other previous filings the Defence have set out in detail their position in regard to, inter alia, the Prosecution's erroneous interpretation of Rule 89(C), the Prosecution's blatant disregard for the guidelines set out by the Chamber for the admission of evidence and the abrogation of the fair trial

rights of the Accused arising from the denial of the right to examine witnesses. These submissions are adopted in their entirety and will not be repeated here.

4. In the alternative, each Defence Team has outlined their objections to specific documents tendered by the Prosecution in the Annexes enclosed.
5. A Joint Defence Motion to Dismiss Certain Prosecution Motions for Admission of Documentary Evidence As an Abuse of Process was filed on the 4th September 2007. The Heliodrom Motion is one of seven motions that form the subject matter of this application for dismissal on the ground that those Motions constitute an abuse of process. It is submitted that it would be desirable for the Chamber to rule on this motion before considering the present application in the interests of saving time and resources.
6. The Defence note that when considering a similar application by the Prosecution the Trial Chamber has held that “considering that the fact remains that probative value of these documents may be diminished as a result of lack of examination of these documents in cross-examination, and that the Chamber will take this factor into account when it evaluates the weight to attach to these documents based upon the totality of the evidence¹.” The Defence respectfully submit that the Heliodrom Motion provides a further model example of the unfairness that may arise to the Accused from the indiscriminate admission of many hundreds of documents without presentation to a witness capable of dealing with their authenticity, relevance and probative value and calls on the Trial Chamber to reconsider this position and reiterates the arguments made in the Joint Defence Motion to Dismiss Prosecution Motions as an Abuse of Process.

¹ *The Prosecutor v Prlic et al*, Decision on Admission of Documentary Evidence Presented by the Prosecution (Jablanica Municipality). Dated 20 July 2007 page 6.

7. Accordingly, for the reasons set out above and in the Annexes herein, the Defence ask that the Prosecution's Motion be dismissed.

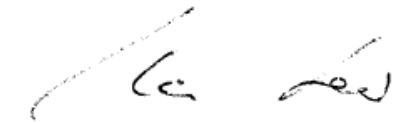
Word Count: 750

Dated: 12 September 2007

Respectfully submitted



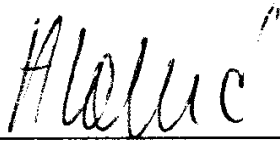
Michael G. Karnavas
Counsel for Jadranko Prlić



Senka Nožica
Counsel for Bruno Stojić



Božidar Kovačić
Counsel for Slobodan Praljak



Vesna Alaburić
Counsel for Milivoj Petković



Dijana Tomašegović-Tomić
Counsel for Valentin Ćorić



Mr. Fahrudin Ibrišimović
Counsel for Berislav Pušić

ANNEX**OBJECTIONS OF THE PRLIĆ DEFENCE****(HELIODROM CAMP)**

The Prlić Defence adopts the general objections made in the joint response with respect to all exhibits to which objection is made in the table below. In particular, Dr. Jadranko Prlić re-iterates his long-standing objections to the introduction of such documents given that: a. he has no opportunity to examine the witnesses against him, a right guaranteed by Article 21(4)(e) of the Statute; b, these documents generally contain multiple levels of hearsay; and c. the documents generally purport to state conclusions rather than offer evidence of facts. Even in relation to any documents which Dr. Jadranko Prlić has no specific objection, he categorically rejects any inferences the Prosecution seeks to draw from any of the documents as reflected in its “reasons the document is important” column. Any comments by the Prosecution are, at best, speculative, argumentative and worthy of no evidentiary weight.

EXHIBIT		OBJECTIONS
1	P01014	There is no foundation for this document. There is no information provided as to how and by whom this document was generated. Simply, it is impossible to discern the bases and reliability of contents contained in the document. It would be highly prejudicial to admit this document without a proper foundation. The burden rests with the party introducing the document to provide sufficient indicia of reliability of the document for its admission. Thus, in this instance, the Defence can not be expected to conduct an investigation concerning the reliability and veracity of the contents in this document in the dark and without any concrete information from the Prosecution.
2	P04545	It appears that in the section 4. titled <i>Specific Victims and Witnesses</i> (p. 126-136) the victims listed by Mr. Mazowiecki are for events not part of the Indictment. Accordingly, pages 126-136 of this document should not be admitted.

ANNEX

OBJECTIONS OF THE STOJIC DEFENCE

The Stojić Defence reiterates the arguments made in the Joint Defence Motion to Dismiss Prosecution Motions as an Abuse of Process, filed on 4 September 2007. Stojić further adopts the general objections made in the joint response in response to the present Motion. In particular, Stojić objects that he has no opportunity to examine the witnesses against him, a right guaranteed by Article 21(4)(e) of the Statute, when documents consisting of multiple levels of hearsay are admitted; and that the documents generally purport to state conclusions rather than offer evidence of facts. Moreover, in absence of the Prosecution's showing the documents to a witness in calculated violation of Guidelines 1 and 6, there is no sufficient showing of authenticity, relevance, probative value, or other foundation. Finally, Stojić does not accept the inferences the Prosecution seeks to draw from the exhibits, which are for the most part speculative and argumentative; and he does not concede that any weight should attach to any exhibit.

OBJECTIONS TO SPECIFIC EXHIBITS

<i>EXHIBIT</i>	<i>OBJECTION</i>
1. P00804	Irrelevant and lacking in foundation. This document is presented out of context. Without reference to the document to which it responds, its relevance cannot be established. If the Prosecution had complied with Guidelines 1 and 6, this objection might have been answered. Any minimal probative value the document may possess is substantially outweighed by the need to ensure a fair trial.
2. P00968	Irrelevant and lacking in foundation. In the absence of a signature by Stojić, its authenticity is not established. It lacks any probative value as against Stojić. Any minimal probative value the document may possess is substantially outweighed by the need to ensure a fair trial.
3. P01589	Irrelevant and lacking in foundation. This document appears to relate to a military base and not to the Heliodrom Prison. If the Prosecution had complied with Guidelines 1 and 6, this objection might have been answered. Any minimal probative value the document may possess is substantially outweighed by the need to ensure a fair trial.
4. P01615	Irrelevant and lacking in foundation. This document appears to relate to a military base and not to the Heliodrom Prison. If the Prosecution had complied with Guidelines 1 and 6, this objection

	might have been answered. Any minimal probative value the document may possess is substantially outweighed by the need to ensure a fair trial.
5. P01720	Irrelevant and lacking in foundation. This document is potentially important. There is no showing as to why it could not be put to Stanko Božić, who is on the Prosecution's list of witnesses. Without this being done, there is no evidence of foundation; there is no evidence of receipt or document number. Depriving Stojić of the right of cross-examination in this instance is both unnecessary and highly prejudicial. If the Prosecution had complied with Guidelines 1 and 6, this objection might have been answered. Any minimal probative value the document may possess is substantially outweighed by the need to ensure a fair trial.

Annex:

Specific Objections of the Accused Praljak to Heliodrom Documents

1. Praljak Defence adopts the general objections made in the joint response with respect to all documentary evidence to which objection is made below.
2. Even in relation to the documents to which he has no objection, General Praljak does not accept the inferences the Prosecution seeks to draw from them in its "*Reasons the Prosecution Considers the Exhibit important to the Determination of the Case*" column, which are for the most part speculative and argumentative; and General Praljak does not concede that any weight should be attached to any exhibit.
3. In relation to Annex 2, the Accused makes the general point that many of the exhibits listed by the Prosecution in the 6th column titled 'Witnesses and other exhibits related to a particular indictment paragraph' are not in fact exhibits. For example, document P04531 is tendered in the Prosecution Motion and listed as number 75 in Annex 2. The Prosecution lists four 'exhibits' in column six in relation to the tendering of this document. In fact, none of those four documents have been admitted in this case and have the status of exhibit. Three of the documents, P04445, P02457 and P00478, are being tendered by the Prosecution in this same motion. Document P02425 has the status of 'Marked for Identification,' having been tendered by the Prosecution through the witness Christopher Beese.
4. In relation to all SPABAT documents, the Accused makes the General Objection that there are relevant witnesses (Witness no. 235 and Witness no. 54 from the Prosecution's combined witness list) coming to testify before the Tribunal for one week and that the Prosecution should put these documents to the witness then.

(a) Exhibits that have already been admitted

5. P02313

(b) The same document has been tendered twice

6. Documents numbered **P07995** and **P07991** are both tendered by the Prosecution through this motion and are the same document.
7. Documents numbered **P08140** and **P08136** are both tendered by the Prosecution through this motion and are the same document.

(c) The Accused Praljak opposes the admission of the following documents as they do not bear sufficient indicia of reliability

8. **P06937**- The date of the document in Annex I is incorrect- the correct date of the document is 8 November 1993. This document has already been the subject of some submissions by the parties and the Trial Chamber has previously denied a request by the Prosecution to admit this document.² The Accused again opposes the admission of this document as it is wholly unreliable due to the reasons set out below.
9. The exhibit appears to be an order signed by Mijo Jelic and additionally signed by the Accused Slobodan Praljak. This document was shown in court to witness Josip Praljak. The witness was unable to provide the Chamber information in court about the authenticity and reliability of the document. Despite the fact that he confirms a bundle of documents presented to him in which the exhibit in issue is included,³ later on the same day when the witness is shown the document separately he twice confirms that he has never seen this document before.⁴ The Accused notes that the Trial Chamber has routinely refrained from admitting documents where the witness is unable to provide the Chamber information about the relevance, probative value or reliability of the evidence.⁵ As it would be highly unusual for such a document to contain two signatures, and also because

²See Order to Admit Evidence Regarding Witness Josip Praljak, filed 3 April 2007.

³ See trial transcript, 28 February 2007, p.14813 l.23 to p.14814 l.5

⁴ See trial transcript, 28 February 2007, p.14896 ll. 6 – 12 and p.14897 ll. 4 - 7

⁵ For example, see 'Order to Admit Evidence Regarding Witness Sejfo Kajmovic' 23 January 2007, Annex; and 'Order to Admit Evidence Relative to Jovan Rajkov' 14 February 2007, Annex

- one of the alleged signatories is the Witness' cousin, it is reasonable to assume that if the witness had seen the document, he would be able to recall having done so.
10. Furthermore, the Accused submits that this exhibit is a forgery and that he never signed the document. It appears that the original document has been tampered with and that a cut-out of Slobodan Praljak's signature and the stamp of the Main Staff have been added. The Accused notes that there is no justification for the inclusion of Slobodan Praljak's signature on the exhibit. In all of the other similar orders signed by Jelic there is no additional signatory. The witness confirms that the order would have been carried out regardless of whether it had two signatures and two stamps or just one.⁶
11. The Accused maintains that on the date of the exhibit in issue (8 November 1993), he no longer held the position of Commander of the Main Staff. This is evident in the order of Mate Boban, dated 08 November 1993, relieving Slobodan Praljak of his duty upon his request. It is explicitly stated that the order is effective immediately.⁷
12. Moreover, on the 08 November 1993, the Accused Praljak was not in the vicinity of Mostar (where allegedly he signed the document in issue). Instead, he was in the areas of Citluk and Livno dealing with the formalities of handing over the duty of Commander of the Main Staff to Ante Roso.⁸
13. The Prosecution may point to document P09479 as evidence corroborating the authenticity of document P06937. The Accused has stated his objection to the authenticity of this document below.⁹ The Accused maintains that this document

⁶ See trial transcript, 28 February 2007, p.14899 ll.11 to 19

⁷ See Exhibit 3D00280

⁸ See Praljak Defence Team Exhibit 3D00948 or Prosecution Exhibit with 65^{ter} number P06556. It is noted that this document is dated 9 November 1993, one day after the document at issue. However, it is reasonable to assume that handing over the duty of Commander of the Main Staff was a lengthy and complicated process that required substantial time to complete. Thus, the process would have already begun on the 8 November 1993 while the formal record of the handing over of responsibility was prepared and signed the next day.

⁹ Paragraph 24

does not confirm P06937 at all. It is merely a list that has been typed up subsequent to the events occurring. If anything, this list strengthens the Accused's point that it is highly unusual that an order was signed by two persons. An examination of document P09479 shows that the other orders were signed by only one person.

14. Document P06777 is a document that is contemporaneous to P06937 and is also being tendered by the Prosecution through this motion. This is a handwritten logbook of detainees taken out of the Heliodrom prison to work. During his testimony, witness Josip Praljak explained to the Trial Chamber the process of recording the information. The witness explained that in these (handwritten) logbooks, the shift commanders would write the name and surname of each and every person who was to leave the prison premises to perform labour.¹⁰ According to this logbook, there were no detainees sent to work outside of the premises on 8 November 1993.
15. Document P06937 is further contradicted by document P06537 (also being tendered through the Prosecution Motion and contemporaneous to document P06937). P06537 is a request from Jelic to the HVO Main Staff to allocate 40 detainees to the 2nd Brigade. According to the handwritten note on the right hand side of the page, this request was denied by General Matic. This is in direct contradiction with the alleged approval in P06937.
16. Additionally, a number of orders for requisitioning of prisoners form part of the Prosecution Motion, these orders provide information such as when prisoners were taken out, to which unit they went, the date and number of prisoners. In none of these orders, dated 8 or 9 November, is there any evidence that the alleged approval for prisoners to be taken out by the 2nd Brigade in P09637 was carried out.¹¹

¹⁰ Trial Transcript, 27 February 2007, p. 14758

¹¹ See for eg. Docs P06483; P06505; P06506; P06512; P06513; P06522; P06530; P06531; P06545 (although this refers to 40 detainees it refers to a different unit (2nd battalion) and to a different work location (Military Barracks)); P06550

17. If the document in issue is admitted, obviously the Defence will need to rebut the document. This will result in the needless consumption of both the Chamber and the Defence's time, in order to present at least two witnesses: first to establish an alibi for the relevant time and also, if the original document is presented by the Prosecution,¹² to bring an expert witness to testify regarding the counterfeiting of the document.¹³
18. Therefore, the Accused submits that the exhibit should not be admitted as it has minimal reliability and probative value, and it was unable to be authenticated when shown to a relevant witness. The Accused contests the authenticity of this document and points to a number of contemporaneous documents that contradict the evidence in P06937. Accordingly, this document should not be admitted without affording the Defence the right to confront the evidence.
19. **P01014**- This document is a list of HVO detention camps. The Prosecution state that this document has been sourced from the BiH Government. This document does not bear any of the commonly required indicia of reliability. There is no information concerning who or which organization created this document. There is no official record number, the list is not written on any kind of official letter head, the document is not signed, the document does not bear any indicia of being communication through any official channels. There is no indication as to where the information was taken from. Further, on the top right-hand corner of the first page it is handwritten 'Attachment no.5-45', thereby suggesting that this is an incomplete document and in fact only one part of a much larger document.

¹² See Slobodan Praljak's Request to the Trial Chamber to Order the Prosecution to Submit Original Document (P06937), filed 06 March 2007

¹³ The Trial Chamber's obligation to avoid needless consumption of time as stipulated in Rule 90(F)(ii) has previously been highlighted by Presiding Judge Antonetti in 'Dissenting Opinion of Jean-Claude Antonetti, Presiding Judge of the Trial Chamber, Regarding the Refusal to Admit Evidence Presented by the Stojic Defence During the Testimony of Jovan Rajkov', 15 February 2007, point 3, and 'Dissenting Opinion of the Trial Chamber's Presiding Judge Regarding Three Documents Presented by the Accused Praljak that were not Admitted in the Order to Admit Evidence Regarding Witness CU', 15 February 2007, point 3.

20. **P04545**- This document is clearly an excerpt from a larger document. The pages are numbered 118 to 136. There is no information supplied regarding the larger document, such as who made it and for what purposes it was made. The document is not dated, it is not signed, and does not appear to be written in association with any official organisations. There is no information regarding how the information was gathered. The form of the document as tendered by the Prosecution is unsuitable to be tendered through this motion. Furthermore, this report appears to consist of multiple levels of hearsay, it is a collection of facts taken from different newspapers and reports from other organisations. It does not appear that any investigations or interviews were conducted, or that this report contains any first hand information whatsoever.
21. **P07186**- This document is a list of people entitled 'Rodoc- Transferred to 3rd Country'- there is no signature or official record number on this document, nor is it written on any type of official letterhead. There is no indication whether this list was sent to anyone, and for what purposes or by who it was made.
22. **P08043**- Taking into account the neatness and uniformity of this list, it would appear that it was typed some time after the events had occurred, assumedly taking the details from various orders or other logbooks. Thus, the authenticity of the information contained in this document is brought into question. It is not known who typed the document and from where the information was taken. Without having access to the original documents, or without being able to examine the contents and the process of making this document through a relevant witness, this document is not a reliable piece of evidence and should not be admitted through this motion. This list is not signed and does not contain the usual HVO record number. Thus, the document's authenticity cannot be reasonably established.
23. **P08186**- In relation to the source and indicia of reliability of this document, the Prosecution has simply stated 'unknown.' The Prosecution has offered nothing to support their claim that this document is sufficiently reliable and therefore it should not be admitted. The Prosecution states that these documents are evidence

that Pusic was involved or had knowledge in the matters of detention and exchanges. The documents are reports on the destruction of mosques in East Mostar. There is absolutely no connection between the interpretation provided by the Prosecution and the contents of the document.

24. **P09479**- Taking into account the neatness and uniformity of this list, it would appear that it was typed some time after the events had occurred, assumedly by taking the details from various orders or other logbooks. Thus, the authenticity of the information contained in this document is brought into question. It is not known who typed the document and from where the information was taken. Without having access to the original documents, or without being able to examine the contents and the process of making this document through a relevant witness, this document is not a reliable piece of evidence and should not be admitted through this motion. This list is not signed and does not contain the usual HVO record number. Thus, the document's authenticity cannot be reasonably established. A close look at the document itself reveals that many mistakes appear to have been made when the list was compiled and confirms that the information contained therein cannot be considered reliable. For example;

- Next to numbers 25 and 26 under the same document number, there are two orders filed, with two different people and two different dates.
- Next to numbers 38, 39, and 40 there is the same document number, but in relation to two different dates and three different names of people in charge. This anomaly appears at numerous points throughout the record, including items 61 and 62; 74 and 75; 99, 100 and 101; 112 and 113; 119 and 120; 129 and 130; 134 and 135; 139 and 140; 144 and 145; as well as many other cases through to the end of the document.
- Next to number 210, there is an order with document number, 02-151/93, a format which is substantially different from all other document numbers on this page, the date of this document is listed as 29 August 1993. However the same document number is listed next to item number 321, with the date of the document stated to be 27 September 1993.

- Next to number 53, is document number 02-4/3-04/2-575/93, with the date 20 July 1993. Next to number 54, the document is dated as the following day- 21 July 1993, but with document number 02-4/2-568/93, a number preceding the document above which is dated earlier. It is known that the operational numbers were assigned in accordance with the chronological order of the documents. There is no explanation as to why this does not appear to be the case here. The same occurs with item numbers 400 and 401.

(d) The Accused Praljak opposed the admission of the following documents as they have no probative value

25. P09267- This list contains no date and thus no conclusions or inferences can be drawn from this document. Without a date, it cannot be assumed that this document bears any relevance to the *Prlic et al* indictment. Furthermore, at certain times relevant to this indictment, Zelko Siljeg was in charge of the military police, and not the Accused Coric.

(e) The Accused Praljak opposes admission of the documents on the basis that they bear no relevance to the Heliodrom

26. P02268- There is no connection between the reasons supplied by the Prosecution, and the content of the document itself. The Heliodrom is not mentioned anywhere in this document.

27. P02457- There is no connection between the reasons supplied by the Prosecution, and the content of the document itself. There is no reference in this report to ‘massive arrests of Muslims in Mostar .. as from 9 May 1993.’ Similarly, there is no reference to conditions in Heliodrom.

28. P02461- There is no connection between the reasons supplied by the Prosecution, and the content of the document itself. The Heliodrom is not mentioned anywhere in this document.

29. **P03233**- There is no mention of the Heliodrom or forced labour in this document.
30. **P04164**- In this document there is no mention of the number of Muslim detainees in the Heliodrom, or of the Heliodrom at all.
31. **P08186**- The Prosecution states that these documents are evidence that Pusic was involved or had knowledge in the matters of detention and exchanges. The documents are reports on the destruction of mosques in East Mostar. There is absolutely no connection between the interpretation provided by the Prosecution and the contents of the document. There is no mention of the Heliodrom at all in these documents
32. **P08431**- The Heliodrom is not mentioned at all in this document.
33. **P03278**- There is only one very small reference to the Heliodrom in this document- where according to the SPABAT sector, 'according to BiH sources' Muslims were arrested in the Heliodrom. This consists of multiple levels of hearsay and has no probative value.

(f) The Accused Praljak opposes admission of the documents on the basis that they are irrelevant to the *Prlic et al* indictment.

34. **P05269**- This prisoners referred to in this document are Croatian prisoners detained in the military prison, thus this document bears no relevance to this case.

(g) The Accused Praljak opposes the interpretation of the comment supplied by the Prosecution in the 'Reasons' column

35. **P06537**¹⁴- This document is a request that has been rejected by General Matic, as is written below the letterhead on the right hand side of the page. It does not therefore show that detainees were used for forced labour, as claimed by the Prosecution. It shows that a request to use detainees for labour was rejected.

¹⁴ See further discussion of this exhibit in paragraph 16 of this Annex

36. **P04170-** The Prosecution incorrectly state that this document demonstrates that Heliodrom detainees were taken to the front line to perform labour. There is no mention of the front line in this document at all. Of the three incidents referred to, two occurred at HDZ premises, and one occurred on prison grounds.
37. **P00916-** This document does not show that the Military Police had authority over the Heliodrom- this document does not give any information whatsoever in regards to who had authority over the Heliodrom. Furthermore, at the time this document was created, the Heliodrom was functioning as a remand centre and thus this document does not refer to detainees.
38. **P02500-** In contrast to what is claimed by the Prosecution, this document shows that most of the detainees had been released from the Heliodrom, it does not refer to massive arrests.
39. **P02561-** This document is dated 29 May 1993. It does not refer to events that occurred on 9 May 1993.
40. **P07186-** This document is a list of people entitled 'Rodoc- Transferred to 3rd Country'- there is no signature or official record number on this document, nor is it written on any type of official letterhead. The Accused Pusic is not mentioned anywhere on this document and thus the 'reasons' supplied by the Prosecution are entirely misplaced.
41. **P07252-** The English translation of this document mistakenly translates the signature as that of Pusic. Although the handwriting is difficult to read, it is clearly not the signature of Pusic. A further indication that it is not the signature of Pusic is that this document is a report that was sent to the Intelligence Service, SIS. Pusic had no connection with SIS and there is no reason that he would sign such a report.
42. **P00804-** This document does not show that Stojic had authority over the Heliodrom, as claimed by the Prosecution. At most, this document shows that Stojic had authority to transfer a regiment from one location to the Heliodrom.

43. **P01321**- This document is not signed by Bozic, it is clearly the signature of Josip Praljak.

Annex

SPECIFIC OBJECTIONS OF THE ĆORIĆ DEFENCE

1. The Defence for Valentin Ćorić (hereinafter: the Defence) incorporates here by reference the objections raised in the joint response and all annexes thereto. It adds one general argument.

2. Whenever a document refers to detainees being taken for labour, the Prosecution in its Annexes states that the detainees were taken for forced labour. The Defence notes this is an assumption. Providing work for detainees, transporting them or guarding them is not unlawful. To support the Prosecution's assertion that any Accused was informed about forced labour: a. the Prosecution has to prove that the detainees were involved in unlawful labour at the particular time the document refers to, and b. the document in question must inform the Accused that unlawful labour was taking place. Very few if any of the documents tendered as evidence that forced labour was taking place and the Accused were informed about this however go to proof of a. and / or b. above.¹⁵ Such documents are mostly unnecessarily repetitive and have little probative value.

3. The Defence notes that a significant number of documents are completely unrelated to the Reason provided by the Prosecution why it considers that document important to its case. Those cases are identified below. In such cases the Prosecution *de facto* does not give a reason. Consequently the Prosecution does not abide by Guideline 6. The importance of abiding by Guideline 6 is clear from numerous Decisions rendered by this Trial Chamber.

The Defence for Valentin Ćorić has the following objections to specific documents:

¹⁵ For an example see Exhibit P02385.

P00478. This document does not indicate it relates to Heliodrom. Furthermore, the period it was drafted (15 September 1992) is not included in the Indictment where it relates to Heliodrom. At 15 September 1992, no conflict between HVO and ABiH existed. Moreover, none of the witnesses and exhibits referred to by the Prosecution in relation to this document support its contention that forced labour was used on or around 15 September 1992.

00513. This document does not show Valentin Ćorić was in command of the prisons “throughout the whole of Herzeg-Bosna”. The document merely refers to the establishment of a central military prison.

00740. This document is irrelevant and lacks probative value. The period it was drafted (13 November 1992) is not included in the Indictment where it relates to Heliodrom. When the documents was drafted, very few if any Muslims were detained in the prison, again making the document fall outside the scope of the Indictment, which relates only to the maltreatment of Muslims.

Because of the above, furthermore no corroborating evidence on forced labour or control over the prison in this period has been tendered.

The document furthermore should not be admitted for it does not mention its authors (only two unknown initials are on the document), contains hear-say evidence, and is not stamped. Under such circumstances the Chamber and the Defence will not be able to establish the document’s probative value. In this light it is noteworthy that the document was not put to the one person who could have testified to this document’s content: Witness Josip Praljak.

P00763. This document is dated 18 November 1992 therefore falls outside the scope of the Indictment (see above, 00740).

P01014. To avoid needless repetition, the Defence draws the Chamber's attention to the objections set out in the Praljak Annex. For the reasons set out in that annex, it stresses this document is not fit for admittance.

P01615. This document does not refer to Heliodrom prison, but rather to the barracks that were situated at the same location. The document therefore cannot support the Prosecution's assertions related to this document. Reference is made to what was stated in paragraph 3 of this Annex (the Prosecution has thus not abided by Guideline 6).

P01720. This document seems unrelated to what the Prosecution states are the reasons why it is important to the Prosecution's case. Its confusing content does not mention Bruno Stojić. It furthermore lacks essential indicia for reliability since it bears no stamp or signature.

P02385. Reference is made to paragraph 2 of this Annex above. The prisoners were involved in offloading food for a field hospital.

P02457 and P02461. These documents do not refer to Heliodrom. Reference is made to what was stated in paragraph 3 of this Annex (the Prosecution has thus not abided by Guideline 6).

P02476. This document does not indicate it is related to Heliodrom, or to forced labour.

P02541. Already tendered through Witness E.

P02561. This documents does not show 'massive arrests'. Rather, the only reference relevant to what the Prosecution says why the document is important to its case are 'unconfirmed reports' that arrests are going to take place in the future. Just mentioning 'unconfirmed reports' about future events is not enough to justify the admission of this multiple page document.

P02958 and P04069. This document does not show that detainees were assigned to HVO units for labour. It mentions work being done for a private company.

P03013 and P03015. These lists containing persons detained in the Military Remand Prison do not as the Prosecution alleges indicate that the Military Police transported those persons, nor that the Military Police received them.

P03028, P03062 and P03190. These lists, compiled by the civilian police rather than the Military Police do not indicate the Military Police was involved in the transfer or receipt of prisoners. Nor does it indicate that Valentin Ćorić was in charge of the facility (P03190).

P03111. This document was sent to the barracks in Heliodrom, not the prison as is stated by the Prosecution. Reference is made to what was stated in paragraph 3 of this Annex (the Prosecution has thus not abided by Guideline 6).

P03167. This document only contains a list of persons to be released based on their age. In no way does it support or refer to what the Prosecution claims: “The second wave of massive arrests of Muslims began on 30 June 1993. Croatian Defence Council Military Police was in charge of transferring and receiving them in Heliodrom.”

P03179. This document is not signed or stamped. Furthermore, it contains live and important issues which should be explained by a witness in Court. The Prosecution should not be allowed to tender such documents as documentary evidence. If allowed into evidence, the Defence will be forced to use its limited time in Court to explain this document. Given that this document needs to be explained in Court and it proposed by the Prosecution, it is only fair that the Prosecution uses its time to explain it.

P03223. The document does not mention Heliodrom.

P03225. This document does not contain information on 'a second wave of arrests'. Reference is made to what was stated in paragraph 3 of this Annex (the Prosecution has thus not abided by Guideline 6).

P03278. There is no mention of Military Police anywhere in the document. Reference is made to what was stated in paragraph 3 of this Annex (the Prosecution has thus not abided by Guideline 6).

P03334. The Defence fails to see how this document relates to forced labour. Reference is made to what was stated in paragraph 3 of this Annex (the Prosecution has thus not abided by Guideline 6).

P03344. This list does not contain information on who was in charge of the facility. It is a list of people who were interviewed at the location. The service which conducts interviews obviously is not necessarily the same service which is in charge of the facility where the interviews take place.

P03465. This document does not contain any information from which to conclude that 'a wave of massive arrests of Muslims began on 30 June 1993'.

P03551. As can be seen from the subject of this document it refers to a report sent to the SIS Administration in Mostar under number 03-02-82/93 dated 16 July 1993. This report is Exhibit number P03498 and it was tendered through Witness BO. This document shows that in fact the Commander of the Operative Zone II and according to his further instructions the Security Service is responsible for the prisoners listed. Consequently, Valentin Ćorić could not have been in charge of detention facilities throughout Bosnia and Herzegovina, as the Prosecution alleges.

P03739. This document does not indicate what prison is referred to. Since it does not indicate what group of prisoners or what prison is meant, it may for example refer to

common (Croatian) criminals or HVO personnel detained by the Military Police. Therefore, this document lacks probative value.

P03770. This is an order pursuant to the Head of the Defence Department to subordinate Military Police units to the III HVO Brigade in order to defend the lines around the Heliodrom barracks. It is thus completely unrelated to Heliodrom prison, as the Prosecution alleges. With reference to what was said under paragraph 3 of this Annex, the Prosecution has not abided by Guideline 6.

P03414, P03468, P3518, P03525 and P03633. Please see paragraph 2 of this Annex.

P03859. As is the case with similar documents (for example **P04015, P04017, P04096**), this document does not only state that a person is to be released. It also states that the release has already been checked with other institutions (in the case the SIS). Therefore, the Prosecution's conclusion from this and other documents that the Military Police had the power to release prisoners (suggesting the Military Police could do so on its own) is wrong. Consent had to be sought from other institutions.

P03864. Nothing in this document suggests that the persons mentioned were released because they agreed to move abroad, as the Prosecution alleges.

P03865. This Exhibit contains a written statement by a witness. Such a written statement can only be tendered through the *lex specialis* contained in Rule 92 *bis*.

P04210. This document lacks essential indicia for reliability. Although it purportedly was taken from the Croatian State Archives, it does not contain a Croatian State Archives stamp. The document furthermore is not signed, or stamped.

P04263. This document has already been tendered.

P04396. This document refers to Ljubuski detention facility, and not Heliodrom.

P04545. This document falls outside the scope of the Indictment in two ways: it relates to conditions in Heliodrom in 1992 and deals with Serb prisoners rather than Muslims. Furthermore, essential indicia necessary to establish the document's probative value is lacking. This is an excerpt from a report, not the full report. Its purpose is unclear (the title is missing while the Prosecution refers to the "[...] UN Commission of Experts at De Paul University"). It does not contain a date and not all sources the report bases its conclusions on are available.

P04978. This document is completely unrelated to the Prosecution's reason why this document is important to its case. Reference is made to what was stated in paragraph 3 of this Annex (the Prosecution has thus not abided by Guideline 6).

P05269. This document deals with detained HVO soldiers who are to be send to combat. This document is thus completely unrelated to the Prosecution's reason why this document is important to its case. Again, with reference to what was said under paragraph 3 of this Annex the Prosecution has not abided by Guideline 6.

P07141. As the document's header and signature confirm, it was drafted by the Service for Exchange of Prisoners and has nothing to do with the Military Police.

P09267. This document lacks probative value. It is a list of names, without any additional information such a date. It certainly cannot support the Prosecution's conclusion that Valentin Ćorić was in charge of the facility.

ANNEX**OBJECTIONS OF THE PUŠIĆ DEFENCE****(HELIODROM CAMP)**

The Pušić Defence adopts the general objections made in the joint response with respect to all exhibits to which objection is made in the table below and in particular re-iterate the following objections to the introduction of such documents given that:

1. He has no opportunity to examine the witnesses against him, a right guaranteed by Article 21(4)(e) of the Statute. Many of the documents are of minimal probative value without the benefit of cross-examination – for instance many have more than one signatory and handwriting that has not been attributed to any individual by the OTP.

2. These documents generally contain multiple levels of hearsay

3. The Pušić Defence does not accept the inferences the Prosecution seeks to draw from the exhibits, which are for the most part speculative and argumentative; and he does not concede that any weight should attach to any exhibit.

4. The documents generally purport to state conclusions rather than offer evidence of facts;

5. In absence of the Prosecution's showing the documents to a witness in calculated violation of Guidelines 1 and 6, there is no sufficient showing of authenticity, relevance, probative value, or other foundation;

<u>EXHIBIT</u> Prefix P where required	<u>OBJECTION(S)</u>
1. 02217 2. 02296 3. 02297 4. 02307 5. 02334 6. 02335 7. 02355 8. 02356 9. 02362 10. 02363	<ul style="list-style-type: none"> • The following documents do not establish that Mr Pusic had any unilateral power or authority to release detainees from Heliodrom or made any significant contribution to this decision. • The procedure to be followed in determining whether any detainee was to be released was complex and involved a number of officials with overlapping responsibilities. • These documents are not signed by Mr Pusic and any reference made to him is hearsay as no evidence has been

11. 02364 12. 02367 13. 02371 14. 02373 15. 02382 16. 02384 17. 02390 18. 02394 19. 02395 20. 02396 21. 02397 22. 02401 23. 02402 24. 02405 25. 02406 26. 02408 27. 02410 28. 03008 29. 02383 30. 02385 31. 02398 32. 03633	<p>presented from any of the signatories of this document including the purported author.</p> <ul style="list-style-type: none"> • Depriving Pusic of the right of cross-examination in this instance is both unnecessary and highly prejudicial. • Any minimal probative value the documents may possess is substantially outweighed by the need to ensure a fair trial.
33. 03200	<ul style="list-style-type: none"> • This document is incorrectly attributed to Mr Pusic who has not signed it.
34. 02476	<ul style="list-style-type: none"> • This document is incorrectly attributed to Mr Pusic who has not signed it and is not mentioned therein.
35. 02918	<ul style="list-style-type: none"> • This document is not signed by Mr Pusic as alleged. • This document does not establish that Mr Pusic had any unilateral power or authority to release detainees from Heliodrom or made any significant contribution to this decision. • The procedure to be followed in determining whether any detainee was to be released was complex and involved a number of officials with overlapping responsibilities. • These documents are not signed by Mr Pusic and any reference made to him is hearsay as no evidence has been presented from any of the signatories of this document including the purported author. • Depriving Pusic of the right of cross-examination in this instance is both unnecessary and highly prejudicial. • Any minimal probative value the documents may possess is substantially outweighed by the need to ensure a fair trial.
36. 03293 37. 03295 38. 03414 39. 03468	<ul style="list-style-type: none"> • The following documents do not establish that Mr Pusic had any unilateral power or authority to release detainees for forced labour purposes or made any significant contribution to the decision taken.

40. 03518 41. 03525 42. 03633 43. 03646	<ul style="list-style-type: none"> • These documents are not signed by Mr Pusic and any reference made to him is hearsay as no evidence has been presented from any of the signatories of this document including the purported author. • Depriving Pusic of the right of cross-examination in this instance is both unnecessary and highly prejudicial.
44. 04178 45. 04450 46. 05744	<ul style="list-style-type: none"> • The following documents do not establish that Mr Pusic had any unilateral power or authority to release detainees or made any significant contribution to the decision taken. • The procedure to be followed in determining whether any detainee was to be released was complex and involved a number of officials with overlapping responsibilities. These documents bear the signature of more than one individual. • 3. Depriving Pusic of the right of cross-examination in this instance is both unnecessary and highly prejudicial
47. 04451 48. 04799 49. 05743 50. 05748 51. 05749 52. 05752 53. 06467	<ul style="list-style-type: none"> • The following documents do not establish that Mr Pusic had any unilateral power or authority to release detainees or made any significant contribution to the decision taken. • The procedure to be followed in determining whether any detainee was to be released was complex and involved a number of officials with overlapping responsibilities. • Depriving Pusic of the right of cross-examination in this instance is both unnecessary and highly prejudicial
54. 05071 55. 05081 56. 05082 57. 05083 58. 05087 59. 05088 60. 05089 61. 05093 62. 05094 63. 05102 64. 05106 65. 06910 66. 02163	<ul style="list-style-type: none"> • The following documents do not establish that Mr Pusic had any unilateral power or authority over the detention of Muslims in Heliodrom. This cannot be established simply from examination of this list of individuals. • Depriving Pusic of the right of cross-examination in this instance is both unnecessary and highly prejudicial
67. 05072 68. 05341	<ul style="list-style-type: none"> • These documents are attributed to Mr Pusic but do not bear any signature or the stamp of his office and no other link is established to the Accused from this list of detainees.
69. 08091.	<ul style="list-style-type: none"> • The Defence ask the Chamber to note that this document also bears the stamp of the District Military Prosecutor.
70. 08136 71. 08140	<ul style="list-style-type: none"> • These documents appear to be duplicates.

72. 09890	<ul style="list-style-type: none"> • This document is dated outside scope of indictment.
73. 07141 74. 07422	<ul style="list-style-type: none"> • This document does not establish that Mr Pusic had any unilateral power or authority to release detainees or made any significant contribution to the decision taken. • The procedure to be followed in determining whether any detainee was to be released was complex and involved a number of officials with overlapping responsibilities. These documents bear the signature of more than one individual. • The handwriting on this document is unclear and is not attributed to any individual by the OTP. • Depriving Pusic of the right of cross-examination in this instance is both unnecessary and highly prejudicial
75. 08186	<ul style="list-style-type: none"> • It is unclear how the OTP seek to establish this report, which does not mention Mr Pusic, and details the destruction of mosques in East Mostar demonstrates Mr Pusic's knowledge or involvement in exchanges.