



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: 7 December 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: 7 December 2009

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON PRLIĆ DEFENCE REQUEST FOR CERTIFICATION TO
APPEAL**

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 “Jadranko Prlić’s Request for Certification to Appeal under Rule 73 (B) against the *Décision relative à la demande de la Défense Prlić de réexaminer la décision de rejeter les pièces pour lesquelles l’identité des sources a été tardivement dévoilée*”, filed publicly by Counsel for the Accused Prlić on 26 November 2009 (“Request”),

NOTING the “Decision on Prlić Defence Motion for Reconsideration of the Decision to Reject Exhibits for which the Identity of Sources was Revealed Late”, rendered publicly by the Chamber on 24 November 2009 (“Decision of 24 November 2009”),

CONSIDERING that the Chamber deems that it is in the interest of justice to determine the matter as soon as possible and that consequently it does not find it necessary to wait for the responses of the other parties to the Request before rendering a decision,

CONSIDERING that the Chamber notes that the Decision of 24 November 2009 was the fifth decision¹ dealing with the specific issue of the identity of the sources of certain documents sought for admission by the Prlić Defence,

CONSIDERING that the Chamber does not even wish to mention the number of decisions that it has also had to render on the issue of Mr Karnavas’s attitude who, at first, refused to disclose the identity of certain sources and, finally, accepted to reveal some of them in part,

CONSIDERING that the Chamber notes that the Prlić Defence has kept the Chamber occupied with this question of the identity of the sources of certain documents for one

¹ “Decision on Prlić Defence Motion for the Admission of Documentary Evidence”, public, 19 December 2008; “Decision on Prlić Defence Motion for Admission of Documentary Evidence”, public, 6 March 2009; “Oral Decision Asking for Explanations from the Prlić Defence Regarding the Motion for a Reconsideration of the Decision on Admission of Documentary Evidence”, Hearing of 8 June 2009, Transcript in French pp. 41289-41290; “Decision on Prlić Defence Motion for Reconsideration of the Decision on Admission of Documentary Evidence”, public, 29 June 2009.

year now² and that the Chamber has, therefore, already spent sufficient time on this issue and on that referring to the admission of the documents in dispute,

CONSIDERING that the Chamber reminds the Prlić Defence that its excessive persistence could moreover be considered an abuse of process within the meaning of Rule 73 (D) of the Rules of Procedure and Evidence (“Rules”),

CONSIDERING that the Chamber therefore warns the Prlić Defence that if it persists with this kind of conduct by filing other such requests in the future, it will apply Rule 73 (D) of the Rules,

CONSIDERING that as a consequence and taking into consideration the reasoning behind the Decision of 24 November 2009, which reminded the Prlić Defence that the issue of the admission of exhibits for which the identity of the sources was revealed late had been resolved once and for all and had constituted *res judicata* since 29 June 2009,³ the Chamber dismisses the Motion,

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 73 (B) of the Rules,

DISMISSES the request for certification to appeal.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this seventh day of December 2009
At The Hague
The Netherlands

[Seal of the Tribunal]

² On 5 December 2008, the Prlić Defence presented a “Motion for the Admission of Documentary Evidence”, in which the Prlić Defence requested the admission of evidence whose source was anonymous.

³ Decision of 24 November 2009, p. 4.