

**UNITED
NATIONS**



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-A

Date: 11 March 2015

Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Carmel Agius
Judge Fausto Pocar
Judge Liu Daqun
Judge Bakone Justice Moloto

Registrar: Mr. John Hocking

Decision of: 11 March 2015

PROSECUTOR

v.

**JADRANKO PRLIĆ
BRUNO STOJIĆ
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ĆORIĆ
BERISLAV PUŠIĆ**

PUBLIC

**DECISION ON PRLIĆ'S MOTION TO REPLACE
TRANSLATION OF EXHIBITS 4D00348 AND 3D03065**

The Office of the Prosecutor:

Mr. Douglas Stringer
Mr. Mathias Marcussen

Counsel for the Accused:

Mr. Michael G. Karnavas and Ms. Suzana Tomanović for Mr. Jadranko Prlić
Ms. Senka Nožica and Mr. Karim A. A. Khan for Mr. Bruno Stojić
Ms. Nika Pinter and Ms. Natacha Fauveau-Ivanović for Mr. Slobodan Praljak
Ms. Vesna Alaburić and Mr. Guénaél Mettraux for Mr. Milivoj Petković
Ms. Dijana Tomašegović-Tomić and Mr. Dražen Plavec for Mr. Valentin Ćorić
Mr. Fahrudin Ibrišimović and Mr. Roger Sahota for Mr. Berislav Pušić

THE APPEALS 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 (“Appeals Chamber” and “Tribunal”, respectively);

BEING SEISED of “Jadranko Prlić’s Motion to Replace Translation of Exhibits 4D00348 and 3D03065 with Annexes I and II”, filed by Jadranko Prlić (“Prlić”) on 1 December 2014 (“Motion”), in which Prlić requests the Appeals Chamber to instruct the Registry of the Tribunal (“Registry”) to replace the English language translation, originally provided by the Conference and Languages Services Section of the Tribunal (“CLSS”), of identical exhibits 3D03065 and 4D00348 (collectively, “Exhibits”) with a revised English language translation of the Exhibits issued by the CLSS;¹

NOTING Prlić’s submission that the original English translation of the Exhibits stated, in relevant part, “following *an order from our superiors*”,² while the revised translation translated the same part as “following *a higher order*”;³

NOTING “Bruno Stojić’s Joinder to Prlić Motion to Replace Translation of Exhibits 4D00348 and 3D03065 with Annexes I and II”, filed by Bruno Stojić (“Stojić”) on 10 December 2014 (“Stojić Joinder”), in which Stojić: (i) joins the Motion;⁴ (ii) submits that, in relying on the incorrect translation of the relevant phrase of the Exhibits, Trial Chamber III of the Tribunal (“Trial Chamber”) drew inferences adverse to him;⁵ and (iii) asserts that it is in the interests of justice to grant the Motion in order to assess the reasonableness of the Trial Chamber’s inferences in the context of a correct translation of the Exhibits;⁶

NOTING the “Prosecution Response to Jadranko Prlić’s Motion to Replace Translation of Exhibits 4D00348 and 3D03065 with Annexes I and II”, filed by the Office of the Prosecutor (“Prosecution”) on 11 December 2014 (“Response”), in which the Prosecution states that it “takes no position” on the Motion,⁷ but advises the Appeals Chamber to verify with the CLSS the correct translation of the sentence in question;⁸

¹ Motion, p. 1. *See also* Motion, Annexes I-II.

² Motion, para. 1 (emphasis in the Motion).

³ Motion, para. 3 (emphasis in the Motion).

⁴ Stojić Joinder, paras 1, 3, p. 3.

⁵ Stojić Joinder, para. 2.

⁶ Stojić Joinder, para. 3.

⁷ Response, para. 1.

⁸ Response, para. 2. The Prosecution further submits that the differences between the original translation of the relevant sentence and the revised translations provided to it on 10 and 11 December 2014 by the CLSS are insignificant, since neither of the two revised translations would have impacted the Trial Chamber’s findings. *See* Response, para. 3.

RECALLING that on 4 February 2015, the Appeals Chamber issued an order instructing the CLSS to clarify the reason for the existence of two revised English language translations of the Exhibits and to indicate which of these translations is correct within seven days;⁹

NOTING that on 11 February 2015, in compliance with the Interim Order, the Deputy Registrar of the Tribunal forwarded to the Appeals Chamber a report submitted by the CLSS,¹⁰ in which the CLSS states that it received seven requests for the translation or the revision of the Exhibits, “which are substantively identical and differ only in handwritten elements on the first page which led to a slight discrepancy in the translations provided”;¹¹

NOTING that the CLSS states that: (i) in response to three requests submitted by the Defence the phrase concerned was initially translated as “following an order from our superiors”;¹² and (ii) in response to two request for verification submitted by Prlić’s defence counsel on 21 and 24 November 2014 and to one request for verification submitted by the Prosecution on 11 December 2014, the English language translation of the relevant phrase was revised to “following a higher order”;¹³

NOTING the CLSS’s recommendation that the revised translation “following a higher order” be used as the authoritative translation of the phrase in the Exhibits;¹⁴

CONSIDERING that at this stage, the Appeals Chamber is solely concerned with the verification of the correct English language translation of the Exhibits and, therefore, does not address the challenges raised in Prlić’s appeal brief as to the Trial Chamber’s findings based on the Exhibits;¹⁵

FOR THE FOREGOING REASONS,

HEREBY GRANTS the Motion and **INSTRUCTS** the Registry to replace the English language translation of the Exhibits with the authoritative translation, as recommended by the CLSS, and take all necessary and appropriate measure to implement this decision.

⁹ Order for Clarification Concerning Translation of Exhibits 3D03065 and 4D00348, 4 February 2015 (“Interim Order”), p. 2.

¹⁰ Memorandum from the CLSS in Compliance with the Interim Order, dated 11 February 2015 (“CLSS Report”), appended to Deputy Registrar’s Submission in Compliance with the Order for Clarification Concerning Translation of Exhibits 3D03065 and 4D00348, 11 February 2015.

¹¹ CLSS Report.

¹² CLSS Report.

¹³ CLSS Report. The CLSS further submits that, in response to one additional request for verification submitted by the Prosecution on 10 December 2014, the English language translation of the relevant phrase was revised to “following an order from higher-up”. However, the CLSS clarifies that this second revised translation was due to a “miscommunication in the workflow” and a subsequent “full re-revision”. The CLSS notes that this second revised translation is “semantically equivalent and carry no difference in meaning” with the first revised translation; “the variation between them being one of style only”. See CLSS Report.

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

Done this 11th day of March 2015,
At The Hague,
The Netherlands.



Judge Theodor Meron
Presiding

[Seal of the Tribunal]

¹⁴ CLSS Report.

¹⁵ See Jadranko Plić's Appeal Brief, 12 January 2015 (confidential), paras 462, 466.