



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: 25 March 2008
Original: ENGLISH
French

IN TRIAL CHAMBER III

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

Registrar: Mr Hans Holthuis

Decision of: 25 March 2008

THE PROSECUTOR

v.

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

PUBLIC

DECISION ON A MOTION FOR RECONSIDERATION

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 Čorić
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 the written submission “Jadranko Prlić’s Motion for Expedited Renewed & Explicit Consideration of His Previously Granted Request for Provisional Release”, filed by Counsel for the Accused Prlić (“Prlić Defence”) on 12 March 2008 (“Motion for Reconsideration”), in which the Prlić Defence requests the Chamber to reconsider its decision on the Accused Prlić’s motion for provisional release dated 19 February 2008 (“Decision of 19 February 2008”),

NOTING the “Prosecution’s Response to Jadranko Prlić’s Motion for Expedited Renewed & Explicit Consideration of His Previously Granted Request for Provisional Release”, filed by the Office of the Prosecutor (“Prosecution”) on 12 March 2008 (“Response”), in which the Prosecution objects to the Motion for Reconsideration,

NOTING the “Supplemental Material in Support of Jadranko Prlić’s Motion for Renewed & Explicit Consideration of His Previously Granted Request for Provisional Release & Request Leave to Modify Conditions of Provisional Release” (“Supplemental Material”), filed confidentially by the Prlić Defence on 17 March 2008, in which it provides supplementary information in support of the Motion for Reconsideration,

NOTING the “Prosecution Consolidated Response to 1) Slobodan Praljak’s Motion for Provisional Release, 2) Motion of Milivoj Petković for Provisional Release during the Remainder of the Period Between Close of Prosecution Case and Beginning of Defence Case and 3) Supplemental Material in Support of Jadranko Prlić’s Motion for Renewed & Explicit Consideration of His Previously Granted Request for Provisional Release & Request Leave to Modify Conditions of Provisional Release” (“Response to Supplemental Material”), filed confidentially by the Prosecution on 20 March 2008, in which it responds to the arguments raised by the Prlić Defence in the Supplemental Material,

NOTING the “Decision on Prosecution’s Consolidated Appeal against Decisions to Provisionally Release the Accused Prlić, Stojić, Praljak, Petković and Čorić”, (“Decision of 11 March 2008”), rendered by the Appeals Chamber on 11 March 2008, in which it sets aside the Decision of 19 February 2008,

CONSIDERING that in support of the Motion for Reconsideration, the Prlić Defence notes in particular that in the Decision of 11 March 2008, the Appeals Chamber established that the Chamber had committed a discernible error by not analysing the impact of the decision rendered on 20 February 2008 pursuant to Rule 98 *bis* of the Rules of Procedure and Evidence (“Rules”)¹ when deciding on provisional release in the Decision of 19 February 2008,²

CONSIDERING that consequently the Prlić Defence requests the Chamber to reconsider its Decision of 19 February 2008, while bearing in mind the Decision of 11 March 2008,³

CONSIDERING that in its Response, the Prosecution maintains in particular that in moving for reconsideration, the Prlić Defence is asking the Chamber to overrule the Decision of 11 March 2008 in which it denied the arguments put forward by the Prlić Defence in support of its motion for provisional release,⁴

CONSIDERING that, according to the Prosecution, since the Appeals Chamber did not remand the matter to the Chamber, the Chamber does not have the authority to reconsider the matter of the Accused Prlić’s provisional release,⁵

CONSIDERING that the Prosecution furthermore requests a stay of the Chamber’s decision should it grant the Motion for Reconsideration and decide once again to provisionally release the Accused Prlić,⁶

CONSIDERING that in support of the Supplemental Material, the Prlić Defence maintains that the humanitarian considerations it raised before the Appeals Chamber

¹ Oral decision rendered pursuant to Rule 98 *bis* of the Rules, 20 February 2008 (court transcript in French 27201-27238 (“Decision of 20 February 2008”).

² Motion for Reconsideration, p. 1.

³ Motion for Reconsideration, p. 1.

⁴ Response, para. 4.

⁵ Response, para. 5.

⁶ Response, para. 6.

in support of its motion for provisional release⁷ have fundamentally changed since then, which would thus allow the Chamber to reconsider the Decision of 19 February 2008,⁸

CONSIDERING that in the Response to Supplemental Material, the Prosecution maintains in particular that the humanitarian considerations raised by the Prlić Defence in the Supplemental Material had already been taken into account and rejected by the Appeals Chamber in the Decision of 11 March 2008,⁹

CONSIDERING that the Chamber finds that it no longer has the authority to reconsider its Decision of 19 February 2008, since the Appeals Chamber rendered a decision on the matter and set it aside, and did not remand the matter to the Chamber,

CONSIDERING that the Chamber recalls that in the Decision of 11 March 2008, the Appeals Chamber analysed all the arguments raised by the Prlić Defence in support of his provisional release and rejected them,¹⁰

CONSIDERING that the Chamber furthermore recalls that the Appeals Chamber alone is competent to reconsider its own decision if it finds this necessary in view of circumstances,

CONSIDERING that the Chamber recalls that in any case, the Prlić Defence may seize it of a new motion requesting provisional release of the Accused Prlić,

FOR THE FOREGOING REASONS,

⁷ “Jadranko Prlić’s Response to Prosecution’s Consolidated Appeal to Decisions to Provisionally Release Prlić, Stojić, Petković, Praljak and Čorić prior to the Defence Case”, 24 February 2008.

⁸ Supplemental Material, pp. 1 and 2.

⁹ Response to Supplemental Material, paras. 36 and 37.

¹⁰ Decision of 11 March 2008, para. 21.

PURSUANT TO Rule 54 of the Rules of Procedure and Evidence,

DECLARES the Motion for Reconsideration inadmissible.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-fifth day of March 2008
At The Hague
The Netherlands

[Seal of the Tribunal]