



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: 1 February 2010
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: 1 February 2010

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON MOTION FOR RECONSIDERATION OF DECISION OF 21
JANUARY 2010 AND APPLICATION OF RULE 73(D) OF THE RULES TO
PRLIĆ'S DEFENCE**

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 Tomašević-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 a motion for reconsideration of the “Decision on Request for Certification to Appeal Against the Decision on Prlić Defence Motion to Reconsider the Rejection of a Number of Videos”, (“Jadranko Prlić’s Motion for Reconsideration of the Décision concernant la Demande de certification d’appel de la Décision portant sur le Demande de la Defence Prli) de reconsidérer le rejet de certaines vidéos”), filed publicly by the Counsel for the Accused Prlić (“Prlić Defence”) on 26 January 2010 (“Motion”), and its confidential annex,

NOTING the “Decision on Prlić Defence Motion for Admission of Documentary Evidence”, rendered publicly by the Chamber on 6 March 2009,

NOTING the “Decision on Prlić Defence Motion for Reconsideration of the Decision on Admission of Documentary Evidence”, rendered publicly by the Chamber on 29 June 2009,

NOTING the “Decision on Certification to Appeal Decision on Prlić Defence Motion for Reconsideration of the Decision on Admission of Documentary Evidence”, rendered publicly by the Chamber on 16 July 2009,

NOTING the “Decision on Jadranko Prlić’s Interlocutory Appeal Against the Decision on Prlić Defence Motion for Reconsideration of the Decision on Admission of Documentary Evidence”, rendered publicly by the Appeals Chamber on 3 November 2009 (“Appeals Chamber Decision”),

NOTING the “Decision on Reconsideration of Decision on Prlić Defence Motion on Admission of Documentary Evidence”, rendered publicly by the Chamber on 19 November 2009 (“Decision of 19 November 2009”),

NOTING the “Decision on Prlić Defence Motion to Reconsider the Rejection of a Number of Videos”, rendered publicly by the Chamber on 18 December 2009 (“Decision of 18 December 2009”),

NOTING the “Decision on Request for Certification to Appeal Against the Decision on Prlić Defence Motion to Reconsider the Rejection of a Number of Videos”, rendered publicly by the Chamber on 21 January 2010 (“Decision of 21 January 2010”),

CONSIDERING that the Prlić Defence requests that the Chamber reconsider the Decision of 21 January 2010 in which it refused to certify the appeal of the Decision of 18 December 2009 in which the Chamber had refused to re-examine the Decision of 19 November 2009, in which it had re-examined, pursuant to the Appeals Chamber Decision, the motion for the admission of video recordings marked with numbers 1D 02070, 1D 02071, 1D 02072, 1D 02078, 1D 02228, 1D 02229, 1D 02230, 1D 02457, 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, 1D 02515, 1D 02844 and 1D 02845,

CONSIDERING that, in support of the Motion, the Prlić Defence posits that the Chamber, in fact, never truly examined, in the light of the information they could have provided,¹ the video recordings themselves,²

CONSIDERING that the Prlić Defence argues that the Chamber’s refusal to examine the explanations provided in the annex to the Motion of 8 December 2009 constitutes a clear error, bearing in mind the importance of these video recordings for the Prlić Defence,³

CONSIDERING that the Chamber believes it to be in the interest of justice to resolve the matter as soon as possible and that it is, consequently, not necessary to wait for the response of other parties to the Motion to rule on the matter,

CONSIDERING that the Chamber notes that the Prlić Defence did not present a single new argument in the Motion,

¹ “Jadranko Prlić’s Motion for Reconsideration of the ‘Decision on Reconsideration of Decision on Prlić Defence Motion on Admission of Documentary Evidence’”, public, 8 December 2009 (“Motion of 8 December 2009”).

² Motion, paras 23 to 25.

³ Motion, para. 26.

CONSIDERING that the Chamber wishes to recall that the present decision constitutes the eighth decision rendered on the sole issue of admission of the video recordings presented by the Prlić Defence since the initial motion of 5 December 2008,⁴

CONSIDERING that the Chamber notes that the Prlić Defence has kept the Chamber occupied with this question of the admission of video recordings for more than a year and that the Chamber has therefore spent too much time on this issue,

CONSIDERING that the Chamber reminds the Prlić Defence that, in a similar situation, having rendered five decisions dealing with the specific issue of the identity of the sources of certain documents sought for admission by the Prlić Defence,⁵ the Chamber had already found that the excessive persistence of the Prlić Defence could be considered an abuse of process and warned it⁶ that, if it persisted with this kind of conduct, the Chamber would apply Rule 73(D) of the Rules of Procedure and Evidence (“Rules”), which stipulates the following:

“Irrespective of any sanctions which may be imposed under Rule 46(A), when a Chamber finds that a motion is frivolous or is in abuse of process, the Registrar shall withhold payment of fees associated with the production of that motion and/or costs thereof.”

CONSIDERING that the Chamber considers that, by systematically calling into question the Chamber’s decisions and making use of its time and resources in a highly disproportionate manner, the attitude of the Prlić Defence is frivolous,

CONSIDERING that the Chamber therefore believes that the Motion constitutes abuse of process in the sense of Rule 73(D) of the Rules and has decided to purely and simply reject the Motion,

⁴ “Jadranko Prlić’s Motion for the Admission of Documentary Evidence”, public, 5 December 2008.

⁵ “Decision on Prlić Defence Request for Certification to Appeal”, public, 7 December 2009.

⁶ “Decision on Prlić Defence Request for Certification to Appeal” public, 7 December 2009, p. 3.

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 73(D) of the Rules,

REJECTS the Motion,

DECLARES that the Motion constitutes abuse of process, **AND**

ORDERS the Registrar to withhold the payment of fees and expenses incurred by the production of the said Motion.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this first of February 2010
At The Hague
The Netherlands

[Seal of the Tribunal]