



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: 16 October 2012
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: 16 October 2012

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON THE ACCUSED PRALJAK'S MOTION FOR FURTHER
EXTENSION OF TIME TO FILE MOTION FOR REVIEW OF
REGISTRAR'S DECISION OF 22 AUGUST 2012**

The Office of the Prosecutor:

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 Stojic
Ms Nika Pinter and Ms Natacha Fauveau-Ivanović for Slobodan Praljak
Ms Vesna Alaburić and Mr Zoran Ivanišević 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 “Slobodan Praljak’s Motion for Further Extension of Time to File a Motion for Review of the Registrar’s Decision”, filed as a confidential and *ex parte* document by Counsel for the Accused Slobodan Praljak (“Accused Praljak” and “Praljak Defence”) on 2 October 2012 (“Motion”),

NOTING the Decision of 22 August 2012 rendered as a public document by the Registrar of the Tribunal (“Registrar”), to which one confidential and *ex parte* annex and one public annex are attached (“Decision of 22 August 2012”), in which the Registrar decided notably that: the Accused Praljak has sufficient funds to remunerate his counsel and that he is ineligible for the assignment of Tribunal-paid counsel;¹ that the Accused Praljak must bear the entirety of the costs of his defence, including all funds previously expended by the Tribunal, namely 3,293,347.49 euros;² that this sum must be reimbursed by the Accused Praljak to the Tribunal within 90 days of the date upon which he is notified of the Registrar’s Decision of 22 August 2012³ and that it is appropriate to stay this decision until the 15-day deadline to appeal expires or, should the Accused Praljak decide to appeal, until the Chamber has determined such an appeal or delivered the judgement in the Prlić et al. case, whichever comes first,⁴

NOTING the “Decision on Accused Praljak’s Motion for Extension of Time to File Motion for Review of Registrar’s Decision of 22 August 2012”, rendered by the Chamber as a public document on 30 August 2012 (“Decision of 30 August 2012”), stating that the deadline to file a motion for review of the Decision of 22 August 2012 shall commence on the date the BCS translation of the said decision is transmitted to the Accused Praljak and ordering that the Accused Praljak shall have 75 days available from that date to file a motion for review,⁵

¹ Decision of 22 August 2012, p. 6.

² Decision of 22 August 2012, p. 6.

³ Decision of 22 August 2012, p. 7.

⁴ Decision of 22 August 2012, p. 7.

⁵ Decision of 30 August 2012, p. 4.

NOTING the “Registrar’s Submission Pursuant to Rule 33 (B) of the Rules Regarding the Defence ‘Motion for Further Extension of Time to File a Motion for Review of the Registrar’s Decision’”, dated 10 October 2012 and filed as a confidential and *ex parte* document by the Registrar on 11 October 2012 (“Response”), indicating that the Registrar did not wish, as a matter of principle, to take a position on whether the motion of the Praljak Defence to further extend the deadline to appeal the decision of 22 August 2012 should be granted,⁶

CONSIDERING that in its new Motion, the Praljak Defence asks the Chamber for an additional extension of 45 days to appeal, thereby granting the Accused Praljak a deadline of 120 days in total,⁷ so that he may procure several documents to prepare his appeal adequately,

CONSIDERING that the Praljak Defence argues that after the Accused received the translation of the Decision of 22 August 2012 on 24 September 2012,⁸ it became clear to him that further inquiry was needed,⁹

CONSIDERING that the Praljak Defence seeks in particular to obtain documents from several administrative organs situated in Croatia and Bosnia and Herzegovina and from several tax administration offices situated in several countries;¹⁰ that it deems, furthermore, that it is necessary to re-evaluate the Accused’s properties in Čapljina and Pisak that were evaluated more than eight years ago¹¹ and that, furthermore, the Accused’s Lead Counsel, who was previously working on the question of the Accused’s financial means, will not be able to participate in the preparation of the appeal,¹²

CONSIDERING, finally, that the Praljak Defence recalls, on the one hand, the complexity and duration of the investigation that served as a ground for the Decision

⁶ Response, para. 3.

⁷ Motion, paras 15 and 16.

⁸ Motion, para. 6.

⁹ Motion, para. 8.

¹⁰ Motion, para. 8.

¹¹ Motion, para. 11.

¹² Motion, para. 12.

of 22 August 2012¹³ and, on the other, the serious impact that the Decision of 22 August 2012 could have on the Accused's right to a Defence,¹⁴

CONSIDERING that in its Decision of 30 August 2012, the Chamber recognised both the complexity of the investigation that served as a ground for the Decision of 22 August 2012 and the serious impact that the Decision of 22 August 2012 could have on the Accused Praljak's right to a Defence,¹⁵

CONSIDERING that the Chamber deems, furthermore, that the Motion for an additional 45 days and a total of 120 days to appeal the Decision of 22 August 2012 is not excessive bearing in mind the circumstances set out in the Motion,

CONSIDERING, in light of these facts, that the Chamber decides to grant the Motion and agrees to give the Praljak Defence an additional 45 days to file a motion for review of the Decision of 22 August 2012, that is to say a total of 120 days starting from 24 September 2012, the date of receipt by the Accused Praljak of the BCS translation of the said decision,

FOR THE FOREGOING REASONS,

PURSUANT TO Articles 20 and 21 of the Statute of the Tribunal, Rule 45 of the Rules of Procedure and Evidence and Article 13 (B) of the Directive on Assignment of Defence Counsel,

GRANTS the Motion,

ORDERS that the Accused Praljak have until 22 January 2013 to file a motion for review of the Registrar's Decision of 22 August 2012.

Presiding Judge Jean-Claude Antonetti attaches a separate concurring opinion to the present decision.

¹³ Motion, para. 13.

¹⁴ Motion, para. 15.

¹⁵ Decision of 30 August 2012, p. 3.

Separate Concurring Opinion of Presiding Judge Jean-Claude Antonetti

I fully support the analysis of the decision to grant an extension of the deadline to the Accused Slobodan Praljak, enabling him to provide us with his written submission in response to the written submission of the Registry.

Beyond this purely technical aspect, I would nevertheless like to make a few observations:

Firstly, I am surprised that it has taken the Registry years to suddenly “wake up” and request that the Accused Praljak reimburse a large sum of money to them on the ground that he has the financial means to do so.

Furthermore, this is no time to bring such a written submission before the Judges when it could have been addressed to us during trial, or when the Chamber intervened in a dispute between the Registry and Slobodan Praljak’s lawyers.

Moreover, the present Chamber is currently busy deliberating a complex case that contains over 27 charges, and several thousand pages of transcripts and almost ten thousand exhibits admitted into the record. The Chamber must not be distracted from its continuous task by other considerations. It would have been more appropriate to wait for our deliberations to conclude and the Judgement to be rendered before dealing with recuperating the funds that were allotted. I must say that I am surprised, to say the least.

Beyond these questions, those who will be drafting the decision will have several major issues to grasp in these written submissions, notably those concerning a debarment of the Registry’s action and the Chamber’s authority regarding the *Directive on Assignment of Defence Counsel*,¹ seeing as temporally the proceedings have ended and, furthermore, I may raise other questions, but they will be asked in due time when I have the Accused’s written submission before me.

¹ See Directive on Assignment of Defence Counsel, Directive No. 1/94, Doc. IT/73/REV.11), 11 July 2006.