



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: 28 August 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

**Order of:** 28 August 2009

**THE PROSECUTOR**

v.

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

***PUBLIC***

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**ORDER LIFTING THE SEAL ON EXHIBIT P 10015**

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**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”);

***PROPRIO MOTU,***

**NOTING** the “Order for Protective Measures”,<sup>1</sup> issued by the Trial Chamber in the *Kordić and Čerkez* case on 2 December 1999 in which it ordered several protective measures for Witness Husnija Mahmutović, including the use of the pseudonym “W” during his testimony,

**NOTING** the “Decision on the Admission of Rule 92 *bis* Witness Transcripts”, rendered partly confidentially on 4 April 2006, in which the Chamber decided to confer a new pseudonym, “AQ”, to Witness Husnija Mahmutović (Witness “W” in the *Kordić and Čerkez* case), who was called to appear by the Office of the Prosecutor (“Prosecution”) in the *Prlić et al.* case (“Decision of 4 April 2006”), and decided that in the absence of any particular requests, the protective measures granted previously would continue to be applied *mutatis mutandis* in the present case,

**NOTING** the intervention by the Prosecution during the hearing of 12 December 2007, the date when Witness Husnija Mahmutović testified before the Chamber, during which the Prosecution informed the Chamber that the witness in question now deemed that the protective measures granted by the Chamber, notably the pseudonym “AQ”, were no longer necessary and that he wished to testify without a pseudonym,<sup>2</sup>

**NOTING** the “Order to Admit Evidence Regarding Witness Husnija Mahmutović”, issued on 23 January 2008, in which the Chamber admitted exhibit P 10015, namely the testimony of Witness “W” (Husnija Mahmutović) on 2 December 1999 in the *Kordić and Čerkez* case,

**NOTING** the oral decision rendered by the Chamber on 17 July 2008 in private session by which it decided to place Exhibit P 10015 under seal in order to guarantee

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<sup>1</sup> *The Prosecutor v. Dario Kordić and Mario Čerkez*, Case No. IT-95-14/2-T, “Order for Protective Measures”, 2 December 1999.

<sup>2</sup> Transcript in French (“T(F)”), p. 25642.

respect of the protective measures granted in the *Kordić and Čerkez* case with respect to Witness Husnija Mahmutović (“Decision of 17 July 2008”),<sup>3</sup>

**CONSIDERING** that the Chamber notes that during his testimony on 12 December 2007, Witness Husnija Mahmutović testified without a pseudonym and in public session;<sup>4</sup> that during his examination-in-chief, the Prosecution had moreover put to his excerpts from Exhibit P 10015, namely his testimony of 2 December 1999 in the *Kordić and Čerkez* case when he testified under the pseudonym “W”, both during public and private sessions, and that this witness commented on these excerpts in public session,<sup>5</sup>

**CONSIDERING** that the Chamber notes consequently that due to this fact, the protective measures granted in the *Kordić and Čerkez* case were amended; that nevertheless, Exhibit P 10015, which corresponds to the 2 December 1999 testimony of Witness Husnija Mahmutović under the pseudonym “W” in the *Kordić and Čerkez* case, continues to be under seal; that there are two differing statuses on Exhibit P 10015 in that some excerpts of this exhibit were discussed by Witness Husnija Mahmutović in public session on 12 December 2007 but that, taking into consideration the Decision of 17 July 2008, this exhibit remains under seal,

**CONSIDERING** that it is now up to the Chamber to clarify the status of Exhibit P 10015 and that in this respect, the Chamber has invited the parties, in its email of 31 July 2009, to file their submissions on the possible lifting of the seal on Exhibit P 10015,

**CONSIDERING** that the Prlić Defence and the Prosecution filed their submissions confidentially on 4 and 6 August 2009, respectively, in which they submit that they do not object to lifting the seal on Exhibit P 10015,<sup>6</sup>

**CONSIDERING** that the Chamber notes that the other Defence teams did not file submissions on this issue,

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<sup>3</sup> T(F), pp. 30886 and 30887, private session.

<sup>4</sup> T(F), p. 25642.

<sup>5</sup> T(F), p. 25648-25653.

<sup>6</sup> “Jadranko Prlić’s Response to the Trial Chamber’s Proposed Modification to the Status of Exhibit P 10015”, 4 August 2009, confidential; “Prosecution Response to the Trial Chamber’s Proposed Modification of the Status of Exhibit P 10015”, 6 August 2009, confidential.

**CONSIDERING** that the Chamber is of the opinion that in this case, taking into account the submissions filed by the parties, it is in the interest of justice to lift the seal placed on Exhibit P 10015,

**FOR THE FOREGOING REASONS,**

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

**ORDERS** that the seal on Exhibit P 10015 be lifted.

*/signed/*

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Judge Jean-Claude Antonetti

Presiding Judge

Done this twenty-eight day of August 2009

At The Hague

The Netherlands

**[Seal of the Tribunal]**