

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-I  
Date: 4 March 2004  
Original: English  
French

**BEFORE THE CONFIRMING JUDGE**

**Before:** Judge Jean-Claude Antonetti  
**Registrar:** Mr Hans Holthuis  
**Decision of:** 4 March 2004

**THE PROSECUTOR**

v.

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

**CONFIDENTIAL AND *EX PARTE*  
ORDER ON REVIEW OF INDICTMENT**

**The Office of the Prosecutor:**  
Mrs Carla Del Ponte

IT-04-74-I  
D5-1/12735 bis  
11 MARCH 2004

5/12735 bis  
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**I, Jean-Claude Antonetti**, Judge 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"), in chambers,

**BEING SEISED** of the indictment dated 4 February 2004 against **JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ** which was filed with the Registry on 4 February 2004, amended on 2 March 2004 and re-filed on 3 March 2004 ("Indictment"), and noting the supporting material filed by the Office of the Prosecutor ("Prosecutor") on a confidential and *ex parte* basis on 4, 12 and 19 February and 3 March 2004;

**NOTING** the "Motion for Issuance of an Indictment under Seal of Confidentiality and for Orders for Surrender and the Transmission of Arrest Warrants and Orders for Surrender" and the "Motion for the Issuance of Arrest Warrants and Orders to Surrender and the Transmission of Such Warrants and Orders for Execution"<sup>1</sup> ("Motions I and II" respectively and "Motions" jointly) filed on a confidential and *ex parte* basis on 4 and 26 February 2004, in which the Prosecutor requests:

- (i) confirmation of the Indictment in accordance with the provisions of Article 19 of the Statute of the Tribunal ("Statute");
- (ii) the issuance of warrants of arrest and orders for surrender ("Arrest Warrants") against the aforesaid persons, and the transmission of these Arrest Warrants to the authorities of the Republic of Croatia, the Republic of Bosnia and Herzegovina and the members of the United Nations ("UN") and the multinational stabilisation force ("SFOR");
- (iii) leave to transmit the Arrest Warrants, orders and other related papers to the authorities of certain States and SFOR as may be necessary to serve, execute and enforce the Tribunal's Arrest Warrants and orders;

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<sup>1</sup> Rule 37(B) of the Rules of Procedure and Evidence ("Rules") states that "[t]he Prosecutor's powers and duties [...] may be exercised by staff members of the Office of the Prosecutor authorised by the Prosecutor, or by any persons acting under the Prosecutor's direction."

- (iv) leave to present a redacted form of the Indictment to each of the accused so that the identities of the other accused are not revealed when an Arrest Warrant and a copy of the Indictment are served upon each of the accused;
- (v) the immediate transmission by the Registrar of true copies of the Arrest Warrants together with the redacted versions of the Indictment so that the Prosecutor may serve them on the authorities of the Republic of Croatia, the Republic of Bosnia and Herzegovina and any member of the United Nations or SFOR as she may determine necessary or appropriate;
- (vi) leave for the Motion and all related papers to be transmitted on a confidential basis and under seal, and for all of the documents to remain confidential and under seal until further order, so that the Arrest Warrants, orders or other related papers may be duly transmitted, executed and enforced;
- (vii) leave to prohibit the accused and their counsel from disclosing both the existence and content of the Indictment, Arrest Warrants and all related papers until such time as a Judge of the Tribunal issues an order revoking these measures, subject to prosecution under Rule 77 of the Rules of Procedure and Evidence.

**NOTING** that the measures specified in the Motions<sup>2</sup> are based on the following grounds:

(i) the risk that the aforesaid persons may take flight and evidence be destroyed, and (ii) the risk of compromising the execution of the Arrest Warrants and co-operation between the Tribunal, the States concerned and SFOR, if such documents were to be made public;

**HAVING HEARD** the Prosecutor on 17 February 2004,

**CONSIDERING** that, on the basis of the material submitted by the Prosecutor, a *prima facie* case has been established against JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ in respect of the crimes with which they are charged in the Indictment;

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<sup>2</sup> It should be pointed out that paragraph 2 of Motion II states that the grounds given in Motion I to justify non-disclosure to the public are superseded by the grounds set out in Motion II.

**CONSIDERING** that each of the redacted versions of the Indictment concerns one of the aforesaid persons and reflects the content of the Indictment, and that the expunged parts contain only information identifying the other aforementioned persons;

**CONSIDERING** that, in accordance with the provisions of Rule 53(A) of the Rules, it is in the interests of justice to order the non-disclosure to the public of the Indictment(s), Arrest Warrants and all papers related to this case until further order by a Judge of the Tribunal; that the risk of flight or of evidence being destroyed does indeed provide ample justification for the non-disclosure to the public of the Indictment and Arrest Warrants;

**CONSIDERING** that the annexes to the Indictment ("Annexes") contain the names of certain victims that must not be disclosed at this stage;

**FURTHER CONSIDERING** that, in view of the provisions of Rule 53(A) and (B), the accused and their counsel should be prohibited from disclosing the existence or the content of the Indictment (or the Indictment in its redacted form), the Arrest Warrant(s) and any other related papers until further order by a Judge of the Tribunal;

**PURSUANT** to Article 19 of the Statute and Rules 37(B), 47, 53, 54 and 55 of the Rules,

**CONFIRM** the Indictment in respect of each and every count therein, **ALLOW** the Motions and **ORDER** that:

1. the Arrest Warrants against JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ be issued and transmitted forthwith to the Prosecutor by the Registrar so that they may be served on the Republic of Croatia and the Republic of Bosnia and Herzegovina;
2. the Arrest Warrants and any related papers be likewise transmitted to any member of the United Nations or SFOR as the Prosecutor may determine necessary or appropriate for the purposes of serving and executing the Arrest Warrants in order to apprehend the aforesaid persons. The Registrar shall lend the Prosecutor all the assistance she requires in the performance of this task;

3. the Indictment shall not be made public until further order by a Judge of the Tribunal;
4. the Indictment shall be served on each of the aforesaid persons only, in its redacted form without the annexes, at the time of his arrest. Such persons and their counsel shall be prohibited from disclosing the existence or the content of the Indictment (or the Indictment in its redacted form), the Arrest Warrant(s) and any other related papers until further order by a Judge of the Tribunal. Any violation of this order may lead to prosecution under Rule 77 of the Rules.

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

Done this fourth day of March 2004  
At The Hague  
The Netherlands

(signed)

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Judge Jean-Claude Antonetti

**[Seal of the Tribunal]**