



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-04-74-PT
Date: 9 December 2004
Original: English

BEFORE THE PRE-TRIAL JUDGE

Before: Judge Alphons Orie

Registrar: Mr. Hans Holthuis

Decision of: 9 December 2004

PROSECUTOR

v.

**JADRANKO PRLIĆ
BRUNO STOJIĆ
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ĆORIĆ
BERISLAV PUSIĆ**

**DECISION ON PROSECUTION'S REQUEST FOR
MODIFICATION OF ORDER FOR PROTECTIVE MEASURES**

The Office of the Prosecutor:

Mr. Kenneth Scott

Counsel for the Accused:

Mr. Ćamil Salahović and Mr. Želimir Par for the accused Mr. Jadranko Prlić
Mr. Željko Olujić for the accused Mr. Bruno Stojić
Mr. Bozidar Kovačić and Ms. Nika Pinter for the accused Mr. Slobodan Praljak
Ms. Vesna Alaburić for the accused Mr. Milivoj Petković
Mr. Tomislav Jonjić for the accused Mr. Valentin Ćorić
Mr. Marinko Škobić for the accused Mr. Berislav Pušić

I, ALPHONS ORIE, pre-trial judge of Trial Chamber I (“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”);

BEING SEISED of the oral Prosecution’s request for a modification of paragraph 2 of the disposition of the “Order for Protective Measures” dated 30 July 2004¹ which states that: “[u]pon disclosing material to the Defence under Rules 66(A)(ii) and 68, the Prosecutor shall identify clearly which parts of the disclosed material are already in the public domain and which parts include statements from victims and witnesses that have not been used before in other proceedings of the Tribunal or have been subject to continuing protective measures and are therefore not in the public domain” on the ground that such a procedure is burdensome and oppressive (“Request”);

NOTING that the Defence of the accused in this case do not oppose the Request and informed the Chamber’s representative that any material disclosed by the Prosecution is treated as confidential and only used for the preparation of the defence of the Accused;²

CONSIDERING that the modification required by the Prosecution does not affect the fairness of the proceedings nor the rights of the Defence and that the parties are in agreement;

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

ORDER that the Disposition of the Chamber’s “Order for Protective Measures” of 30 July 2004 shall read as follows:

1) For the purposes of the present disposition:

- a. The term “public” shall be defined to include all persons, governments, organisations, entities, clients, associations, and groups other than the Judges of the Tribunal and the staff of the Registry (assigned to either Chambers or the Registry), the Prosecutor of the Tribunal and her staff, the accused Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić (“Accused”), their Defence counsel, legal advisers, legal assistants and other members of the Defence (“Defence”), their agents or representatives. The term

¹ Rule 65ter Conference of 23 November 2004, T. pp 66-67, Status Conference of 24 November 2004, T. pp 199-200.

² Rule 65ter Conference of 23 November 2004, T. pp 67-69.

“public” specifically includes, without limitation, families, friends and associates of the Accused before the Tribunal and their Defence counsel, and the media and journalists,

- b. The term “Defence” or “The Accused Defence” as designated above, means and includes only the accused Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić and counsel(s) and their immediate assistant(s) and staff, and others specifically assigned by the Tribunal to the Accused’s trial defence teams and specifically identified in a list to be maintained by each lead counsel. Any and all additions and deletions to the initial list in respect of any of the above categories of persons who are necessarily identified and properly involved in the preparation of the defence shall be notified to the Trial Chamber in similar fashion within seven days of such additions or deletions,
- c. The term “media” shall be defined as all video, audio, and print media personnel, including journalists, authors, television and radio personnel, and their agents and representatives,

2) Unless directly and specifically necessary for the preparation and presentation of the Defence case, the Defence or the Accused shall not disclose to the public any material disclosed pursuant to Rules 66(A)(i) and 68 (including material that previously covered by Rule 70), including:

- a. the identities and whereabouts of witnesses to the extent that these are known to the Defence or the Accused,
- b. any evidence (including documentary, physical or other evidence) or any written statement of a witness or potential witness, or the substance, in whole or in part, of any evidence, statement or prior testimony disclosed to the Defence or the Accused pursuant to Rules 66(A)(ii) and 68 of the Rules,

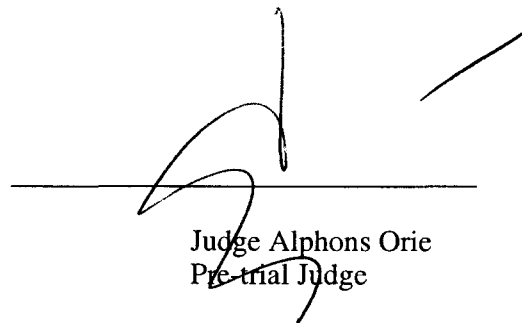
3) If the Defence or the Accused find it directly and specifically necessary for the preparation and presentation of the case to disclose protected information to a member of the public, they shall inform each person among the public to whom material or information is shown or disclosed, that that member of the public shall not copy, reproduce or publicise such material or information, in whole or in part, or show or disclose it to any other person and they shall obtain non disclosure agreements from third parties as a precondition for the release of the material to them. If provided with the original or any copy or duplicate of such

material, such member of the public shall return it to the Defence when the material is no longer necessary for the preparation and presentation of the Accused's cases,

- 4) If the Defence teams in this case, or a member thereof, withdraw from the case, any material in their possession shall be returned to the Registry of the Tribunal including all disclosed material and copies thereof which are not included in the public record,
- 5) Any breach of this Order shall be dealt with in accordance with Rule 77 of the Rules ("Contempt of the Tribunal").

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

Dated this 9th day of December 2004.
At The Hague,
The Netherlands.



Judge Alphons Orié
Pre-trial Judge

[Seal of the Tribunal]