



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: 26 March 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

Acting Registrar: Mr John Hocking

Decision of: 26 March 2009

THE PROSECUTOR

v.

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

PUBLIC

**DECISION REGARDING REQUESTS FILED BY THE PARTIES FOR
RECONSIDERATION OF DECISIONS BY THE CHAMBER**

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

CONSIDERING that the Chamber has rendered numerous decisions in the present case dealing with requests for reconsideration of decisions rendered by the Chamber ("Requests for Reconsideration"),¹

CONSIDERING that the Chamber has now observed a substantial increase in the number of Requests for Reconsideration; that these requests essentially deal with decisions on the admission of evidence rendered by the Chamber,² at times after several weeks,³ but also with any other decisions rendered by the Chamber,⁴

CONSIDERING that the Chamber deems it appropriate to recall that there is no provision in the Rules of Procedure and Evidence ("Rules") for Requests for Consideration; that they are the product of the jurisprudence of the Tribunal applied by the Chamber, and are admissible only under certain conditions,

CONSIDERING in fact that a Trial Chamber has the inherent power to reconsider its own decisions and that it may grant a request for reconsideration if the requesting

¹ See for example, Decision on the Praljak Defence Motion for Reconsideration Regarding the Admission of Exhibit 3D 02653, 16 March 2009; Decision on Bruno Stojić Motion to Reconsider the Decision of 7 January 2009; rendered confidentially on 3 March 2009; Decision on Jadranko Prlić's Request for Reconsideration of the Decision of 20 November 2008, rendered confidentially on 12 February 2009; Decision on Praljak Defence Request for Reconsideration or for Certification to Appeal the Order of 14 October 2008, 12 November 2008; Decision on Stojić Defence Request for Reconsideration, 4 November 2008.

² See for example, most recently, Prosecution request for reconsideration of the rejection of Exhibits P05507, P05508, P05511, P05512, and P05514 (Witness 2D-AB), 24 March 2009; see also Prosecution request for reconsideration of the rejection of Exhibit P10810 (Witness Stipo Buljan), 12 March 2009; Praljak Defence motion for reconsideration of the rejection of Exhibit 3D02653 (Witness Milan Cviki), 23 February 2009.

³ See for example, Jadranko Prlić's Request for Reconsideration of the Order Admitting Evidence Regarding Witness Milan Cviki, filed confidentially on 9 March 2009; Prosecution Motion to Admit Limited Excerpts of Exhibit P 10768 (Witness Milan Cviki), 3 March 2009.

⁴ See for example Bruno Stojić's Motion to Reconsider in Part the Trial Chamber's "Decision on Stojić Defence Motion to Add Exhibits to its 65 *ter* Exhibit List" dated 7 January 2009, with Annexes A and B, filed confidentially by Counsel for the Accused Bruno Stojić, 4 February 2009; Jadranko Prlić's Request for Reconsideration of the Decision on the Prlić Defence Motion to Add Exhibits to its 65 *ter* Exhibit List, filed confidentially on 30 January 2009.

party satisfies the Chamber of the existence of a clear error in the reasoning of the impugned decision or that particular circumstances, which may be new facts or new arguments,⁵ justify its reconsideration in order to avoid an injustice,⁶

CONSIDERING that the Chamber further recalls that Requests for Consideration must not become a mechanism that is systematically used to redress the imperfections contained in the parties' motions or to challenge a decision of the Chamber and circumvent the rules of procedure governing certification to appeal decisions rendered by the Trial Chambers, which are provided for in Rules 73 (B) and (C) of the Rules,

CONSIDERING that the Chamber must ensure the expeditiousness of the trial, and holds that the complexity and scope of the present case demand that Requests for Reconsideration remain the exception and not the rule,

CONSIDERING that the Chamber therefore decides, by way of this decision, henceforth to place restrictions on Requests for Reconsideration so as not to further encumber the Chamber and not to obstruct the proper conduct of the trial,

CONSIDERING that the Chamber consequently decides as follows:

(1) the practice of the Chamber in respect of requests for the admission of evidence has been sufficiently established for the Chamber to decide that Requests for Reconsideration dealing with the admission of evidence are no longer admissible to the extent that they deal with errors attributable to the parties,⁷

(2) all other Requests for Consideration shall be filed within seven days of the filing of the impugned decision with the Registry,

⁵ *The Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Decision on Defence's Request for Reconsideration, 16 July 2004, pp. 3 and 4, citing *The Prosecutor v. Laurent Semanza*, Case No. ICTR-97-20-T, Trial Chamber III, Decision on Defence Motion to Reconsider Decision Denying Leave to Call Rejoinder Witness, 9 May 2002, para. 8; see also the application of this standard by the Prlić Chamber, Decision on Motion for Reconsideration Filed by the Prlić Defence, 15 July 2008.

⁶ *The Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Decision on Defence's Request for Reconsideration, 16 July 2004, pp. 3 and 4, citing in particular *The Prosecution v. Zdravko Mucić et al.*, Case No. IT-96-21A^{bis}, Judgment on Sentence Appeal, 8 April 2003, para. 49; *The Prosecutor v. Popović et al.*, Case No. IT-05-88-T, Decision on Defence Motion for Certification to Appeal Decision Admitting Written Evidence pursuant to Rule 92 bis, 19 October 2006, p. 4.

⁷ For example, when the requesting party has not put a document to a witness in court, that document is not admissible. A document is also not admissible in cases where the requesting party has failed to upload onto the e-court system the English translation of the document requested for admission, or

(3) Requests for Reconsideration must be duly reasoned. The requesting party must satisfy the Chamber of the existence of a clear error in the reasoning of the impugned decision or that particular circumstances, which may be new facts or new arguments, justify its reconsideration in order to avoid an injustice,

FOR THESE REASONS,

IN ACCORDANCE WITH Rule 54 of the Rules,

ORDERS the Prosecution and the Defence teams to comply with the provisions of the present decision, with effect from the date it is issued.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-sixth day of March 2009
At The Hague
The Netherlands

[Seal of the Tribunal]

where that party has failed to specify the excerpt of the document in the English version or the *e-court* page number of the English version requested for admission.