



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: 18 December 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

Decision of: 18 December 2009

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON PRLIĆ DEFENCE MOTION TO RECONSIDER THE
REJECTION OF A NUMBER OF VIDEOS**

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"),

SEIZED of "Jadranko Prlić's Motion for Reconsideration of the *Décision relative au réexamen de la décision portant sur la demande de la Défense Prlić d'admission d'éléments de preuve documentaires*", filed publicly by Counsel for the Accused Prlić ("Prlić Defence") on 8 December 2009 ("Motion") with five confidential annexes attached,

NOTING the "Decision on Prlić Defence Motion for Admission of Documentary Evidence", rendered publicly by the Chamber on 6 March 2009 ("Decision of 6 March 2009"),

NOTING the "Decision on Prlić Defence Motion for Reconsideration of the Decision on Admission of Documentary Evidence" rendered publicly by the Chamber on 29 June 2009 ("Decision of 29 June 2009"),

NOTING the "Decision on Jadranko Prlić's Interlocutory Appeal against the Decision on Prlić Defence Motion for Reconsideration of the Decision on Admission of Documentary Evidence", rendered publicly by the Appeals Chamber on 3 November 2009 ("Decision of the Appeals Chamber"),

NOTING the "*Décision relative au réexamen de la décision portant sur la demande de la Défense Prlić d'admission d'éléments de preuve documentaires*", rendered publicly by the Chamber on 19 November 2009 ("Decision of 19 November 2009"), in which, following the Decision of the Appeals Chamber, the Chamber reconsidered Prlić Defence Motion to have admitted several videos, admitting three videos and rejecting the remaining videos,¹

CONSIDERING that the Prlić Defence argues that the Decision of 19 November 2009 introduces guidelines and clarifies admission criteria for requests for the

¹ Decision of 19 November 2009, p. 5.

admission of videos, which constitutes special circumstances justifying a reconsideration of this Decision,²

CONSIDERING that the Prlić Defence submits additional information to the Chamber for it to consider, in light of the newly clarified criteria, the admission of the videos tendered for admission following the Motion of 5 December 2008³ and rejected by the Chamber in its Decisions of 6 March 2009, 29 June 2009 and 19 November 2009,⁴

CONSIDERING that the Chamber finds that it is in the interest of justice to resolve the matter as soon as possible and that it is, therefore, not necessary to wait for a response to the Motion from the other parties in order to give a ruling,

CONSIDERING that the Chamber recalls that a Trial Chamber may receive a request for reconsideration if the requesting party satisfies the Chamber of the existence of a clear error of reasoning in the impugned decision or of particular circumstances, which could be new facts or arguments,⁵ that justify its reconsideration in order to avoid injustice,⁶

CONSIDERING that the Chamber has indicated for some time now the need for the parties to provide it with information on the source and date of the documents for which admission is sought in a written motion,⁷

CONSIDERING that, in the Decision of 6 March 2009, the Chamber clearly rejected the videos for which the Prlić Defence sought admission on the ground that they do not have a date and/or a source,⁸

² Motion, para. 15.

³ "Jadranko Prlić's Motion for Admission of Documentary Evidence", public, 5 December 2008 ("December of 5 December 2008").

⁴ Motion, paras 16 to 22.

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 Witnesses", 9 May 2002, para. 8.

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 Prosecutor v. Zdravko Mucić et al.*, Case No. IT-96-21A-bis, "Judgement on Sentence Appeals", 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 "Decision on Adopting Guidelines for the Presentation of Defence Evidence", 24 April 2008, Guideline 6; "Decision on Adopting Guidelines for the Presentation of Defence Evidence", 24 April 2008, Guideline 9.

CONSIDERING that, in the Decision of 29 June 2009, the Chamber had once more confirmed that it could not admit videos that do not have a date and/or a source,⁹

CONSIDERING that in the Decision of the Appeals Chamber, the latter does not bring into question again the Chamber's position that it cannot admit, through a written request, videos that do not have the dates and/or sources, but simply requested that it take into account, with regard to the admission of some videos, the additional information provided by the Prlić Defence in the Motion for Reconsideration of 8 May 2009,¹⁰

CONSIDERING that the Chamber notes, therefore, that since the Motion for Reconsideration of 8 May 2009,¹¹ the Prlić Defence provided the Chamber with additional information enabling the Chamber to determine the source and date of some videos¹² and that these were admitted in the Decision of 19 November 2009,

CONSIDERING that the Chamber finds, therefore, that the Prlić Defence was sufficiently informed about the criteria for admitting the videos for which it sought admission through a written motion; that, consequently, the Decision of 19 November 2009 does not represent a special circumstance justifying reconsideration by the Chamber in the matter and that the Chamber decide therefore to deny the Motion,

⁸ See Annex to Decision of 6 March 2009.

⁹ Decision of 29 June 2009, para. 40.

¹⁰ "Jadranko Prlić's Motion for Reconsideration of the Decision on Prlić Defence Motion for Admission of Documentary Evidence", confidential, 8 May 2009 ("Motion for Reconsideration of 8 May 2009") and Decision of the Appeals Chamber, para 44.

¹¹ "Jadranko Prlić's Motion for Reconsideration of the Decision on Prlić Defence Motion for Admission of Documentary Evidence", confidential, 8 May 2009 ("Motion for Reconsideration of 8 May 2009").

¹² See Motion for Reconsideration of 8 May 2009 for exhibits marked 1D 2070, 1D 02071 and 1D 02229.

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 89 of the Rules of Procedure and Evidence,

DENIES the Motion,

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this eighteenth day of December 2009
At The Hague
The Netherlands

[Seal of the Tribunal]