



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: 14 July 2010
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: 14 July 2010

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON REQUEST BY VALENTIN ĆORIĆ'S DEFENCE FOR AN
EXTENSION OF THE DEADLINE TO FILE TWO REQUESTS FOR
RECONSIDERATION OR CERTIFICATION TO APPEAL**

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 “Valentin Ćorić’s Request for Variation of Time-Limits Pursuant to Rule 127 in Regards Two Request” filed confidentially by Counsel for the Accused Valentin Ćorić (“Ćorić Defence”) on 15 June 2010 (“Request”), in which the Ćorić Defence requests that the Chamber grant it an extension of time-limits, pursuant to Article 127 (A) of the Rules of Procedure and Evidence (“Rules”), in order to allow it to file a request for reconsideration or, in the alternative, a certification to appeal the “Order to Admit Evidence Regarding the Testimony of Milivoj Petković” rendered publicly by the Chamber on 1 June 2010 (“Order of 1 June 2010”) and the “Decision on Ćorić Request for the Admission of Documentary Evidence” rendered publicly by the Chamber on 25 May 2010 (“Decision of 25 May 2010”),

NOTING the “Decision on Ćorić Defence Request for Reconsideration, or Alternatively, Certification to Appeal the Decision on its Motion to Admit Documentary Evidence” rendered publicly by the Chamber on 14 June 2010 (“Decision of 14 June 2010”), in which the Chamber dismissed the request by the Ćorić Defence for reconsideration or for certification to appeal the Decision of 25 May 2010 on the grounds that “the Ćorić Defence failed to respect the deadline by which it was to file a request”,¹

NOTING the “Decision Regarding Requests Filed by the Parties for Reconsideration of Decisions by the Chamber” rendered publicly by the Chamber on 26 March 2009 (“Decision of 26 March 2009”), in which the Chamber invites the parties to file their requests for reconsideration “within seven days of the filing of the impugned decision with the Registry”,²

CONSIDERING that the other parties have not filed any reply to the Request,

¹ Decision of 14 June 2010, p. 2.

² Decision of 26 March 2009, p. 3.

CONSIDERING that in support of the Request, the Ćorić Defence seeks leave of the Chamber to file the requests for reconsideration or, alternatively, for certification to appeal the Decision of 25 May 2010 and Order of 1 June 2010, beyond the deadline of seven days, which expired at the time the Request was filed, being 15 June 2010, in order to obtain admission of nine documents rejected in the decisions already mentioned in the Motion,³ the importance of which is, however, crucial to establishing the truth and fairness of the trial,⁴

CONSIDERING that in support of the Request, the Ćorić Defence argues that a series of circumstances led the Defence to make a mistake in the deadline assigned for requests for reconsideration and while this error is regrettable, it does not prevent the Chamber from authorising the Request, pursuant to Rule 127 (A), in the interest of justice, even if the deadline set out in the Decision of 26 March 2009 has now expired,⁵

CONSIDERING that the Ćorić Defence moreover claims that to grant the Request would not cause prejudice to the other parties,⁶

CONSIDERING that according to the Ćorić Defence, it is in the interest of justice to authorise the filing of a request for reconsideration in relation to Decision of 25 May 2010 and refers, in this respect, to the arguments that it set forth in its previous request on the subject of the importance of six of the nine new documents,⁷

CONSIDERING that the Ćorić Defence argues that it is in the interest of justice to authorise it to file the request for reconsideration in respect to the Order of 1 June 2010, and maintains in particular that document 5D 04376 is vital since it shows the command structure to which the battalions of the HVO military police in Prozor

³ P 02963, P 05186, 5D 00269, 5D 04197, 5D04205 and 5D 04232, whose admission was rejected by the Decision of 25 May 2010; P 10028, P 10029 and 5D 04376, whose admission was rejected by the Order of 1 June 2010.

⁴ Request, para. 8.

⁵ Request, para. 4.

⁶ Request, para. 7. The Ćorić Defence quotes as an example the “Decision on Expert Report and Addendum of Harry Konings”, rendered by Trial Chamber I in *The Prosecutor v. Ante Gotovina, Ivan Ćermak and Mladen Markač* IT-06-90, 18 December 2008, paras 13 to 15.

⁷ Request, para. 8. See “Valentin Ćorić Request for Reconsideration or Alternatively for Certification of Appeal regarding the *Décision portant sur la demande de la Défense Ćorić d’admission d’éléments de preuve documentaires*”, public, 6 June 2010 (“Motion”), in which the increasing significance of documents P 02963, P 05186, 5D 00 269, 5D 04197, 5D 04205 and 5D 04232 is set forth.

municipality were subordinated;⁸ that documents P 10028 and P 10029 correspond to extracts of the transcript of Milivoj Petković's testimony in the *Blaškić* and *Kordić* cases, which are vital to the expression of truth and enables the Chamber to assess the credibility of his testimony before the Chamber from 11 February to 11 March 2010,⁹

CONSIDERING, finally, that the Čorić Defence argues that it is in the interest of justice that the Chamber grant the Request because it will be impossible from now on for the Defence to present the nine documents rejected in the Order of 1 June 2010 and the Decision of 25 May 2010 through other procedures since the Defence case has now come to an end,¹⁰

CONSIDERING that the Chamber recalls that the requests for reconsideration or certification to appeal should be filed within seven days of the publication of the impugned decision,¹¹ and that one of the two decisions that are the subject of the Request, namely the Decision of 25 May 2010, was already the subject of another request for reconsideration or certification to appeal by the Čorić Defence, rejected by the Decision of 14 June 2010 as it was filed after the deadline,

CONSIDERING that the Chamber finds that the other decision dealing with the Request, namely the Order of 1 June 2010, was filed after the deadline,

CONSIDERING that the Chamber finds that, in support of the Request, the Čorić Defence did not provide any explanation justifying its tardiness and considers that the lack of care by the Čorić Defence whereby it failed to file the two requests for reconsideration or certification to appeal within the seven-day deadline, despite the well-established practice of the Chamber, would require that the Request be dismissed,

CONSIDERING that, quite exceptionally, since the Čorić Defence completed the presentation of its case on 1 April 2010, it no longer has the possibility of presenting evidence, that it presents arguments in support claiming that not to admit the nine documents into evidence would be prejudicial to the Defence, the Chamber agrees to examine further the Request,

⁸ Request, paras 9 and 10.

⁹ Request, paras 11 to 14.

¹⁰ Request, para. 18.

¹¹ Decision of 26 March 2009, p. 3, and Rule 73 (C) of the Rules.

CONSIDERING that in this case the Chamber states that despite the title of this Request, in respect of which the Chamber could conclude that the Čorić Defence is only asking for an extension of the deadline in order to present an ulterior request for reconsideration or certification to appeal, it is necessary to assess the Request as a request for reconsideration and a certification to appeal in order to admit here and now nine exhibits that had previously been rejected,

CONSIDERING in this case that the Chamber agrees to re-examine the three documents (5D 04376, P 10028 and P 10029) discussed in the Order of 1 June 2010 on the nine requests for admission, since the Čorić Defence maintains in its Request that they are vital for the case and that the Chamber should admit them in order to avoid an injustice,¹²

CONSIDERING with regard to the six other documents considered in the Decision of 25 May 2010 which are also the subject of the Request, that the Chamber finds that by simply referring to the arguments set forth in the previous request on the importance of these six documents,¹³ the Čorić Defence has not shown sufficiently valid reasons to justify a re-examination; that considering the failure to respect the deadline imposed in the Decision of 26 March 2009, it should have at least presented its arguments in the present Request and not simply referred back to a previous request,

CONSIDERING that in respect of the three other exhibits and Exhibit 5D 04376 in particular, the Chamber recalls that it had rejected the admission of this exhibit in the Order of 1 June 2010, on the grounds that the Witness Milivoj Petković was unable to comment on the relevance and probative value of the Exhibit,¹⁴

CONSIDERING that the Chamber recalls that Exhibit 5D 04376 is a reply by Commander Šiljeg to an order to engage the military police in Prozor, dated 19 April 1991, that it now finds that it had indeed been commented on by Milivoj Petković

¹² See in particular Request, paras 8 to 14.

¹³ Request, para. 8. See “Valentin Čorić Request for Reconsideration or Alternatively for Certification of Appeal Regarding the *Décision portant sur la demande de la Défense Čorić d’admission d’éléments de preuve documentaires*” public, 6 June 2010 (“Motion”), in which the arguments on the importance of Exhibits P 02963, P 05186, 5D 00 269, 5D 04197, 5D 04205 and 5D 04232 are set forth.

¹⁴ Order of 1 June 2010, p. 13.

during his testimony¹⁵ and finds therefore that it committed an error in the Order of 1 June 2010,

CONSIDERING that the Chamber considers that 5D 04376 presents sufficient indicia of authenticity, reliability and probative value and that it should be admitted into evidence,

CONSIDERING that in respect of documents P 10028 and P 10029 the Chamber finds that it has not erred in its reasoning and upholds the decision not to admit these documents,

CONSIDERING that, consequently, the Chamber decides to grant the Request partially and decides to admit into evidence Exhibit 5D 04376 and to deny the Request in all other respects,

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 127 (A) of the Rules,

PARTIALLY GRANTS the Request,

DECIDES to admit Exhibit 5D 04376, **and**

DENIES the Request in all other respects.

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this fourteenth day of July 2010
At The Hague
The Netherlands

[Seal of the Tribunal]

¹⁵ Transcript (F), pp. 50261 and 50262, 2 March 2010.