



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 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: 26 July 2010

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON JADRANKO PRLIĆ'S REQUEST FOR 1) CLARIFICATION
OF JUDGE PRANDLER'S ASSOCIATION WITH VICTOR ANDREEV AND
2) PUBLIC HEARING**

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 Request for Clarification and Full Disclosure of Judge Prandler’s Association with UN Civil Affairs Advisor in BiH, Viktor Andreev & Request for a Public Hearing” (“Request”), filed publicly by Counsel for the Accused Jadranko Prlić (“Prlić Defence”) on 20 July 2010, with two confidential Annexes, in which the Prlić Defence requests that the Chamber elaborate on the nature of the relationship between Judge Árpád Prandler and Viktor Andreev, UN Civil Affairs Advisor, mentioned in brief by Judge Prandler during the hearing of 8 March 2010, and hold a public hearing in order to clarify the matter,¹

CONSIDERING that the Chamber does not find it necessary to wait for any possible response by the other Defence teams and the Office of the Prosecutor (“Prosecution”) before ruling on this matter,

CONSIDERING that in support of the Request the Prlić Defence argues that at the hearing of 8 March 2010 the name of Viktor Andreev was brought up during the Accused Petković’s testimony as a witness and that Judge Prandler then declared that he knew him when he worked for the United Nations in New York,²

CONSIDERING that the Prlić Defence claims that the importance of this information, revealed by Judge Prandler himself during the hearing of 8 March 2010, and an appearance of potential bias on his part, came to light when the Prlić Defence read extracts of the R. Mladić diary revealing Viktor Andreev’s position on the conflict in the RBiH disclosed by the Prosecution on 14 April 2010,³

CONSIDERING that the Prlić Defence argues that it is incumbent upon Judge Prandler to disclose completely the facts and circumstances surrounding his

¹ Request, paras 1 to 13.

² Request, para. 3.

³ Request, paras 4 and 7.

relationship with Viktor;⁴ that it also argues that failure to disclose this information constitutes a violation of the rights of the Accused Jadranko Prlić (“Accused Prlić”) to an impartial trial;⁵ that it also argues that the Viktor Andreev’s position during the conflict in the RBiH revealed in the R. Mladić diary seems to be contrary to the mission and the mandate of the United Nations and casts doubt on the reliability and the precision of United Nations and UNPROFOR documents, some of which have been admitted into evidence, and that, consequently, it is concerned about the probative value that Judge Prandler is likely to attribute to them in view of his past relationship with Viktor Andreev;⁶ that it suggests that in the absence of supplementary information, it is at present not able to ask for Judge Prandler to be withdrawn,⁷ and finally, that the filing of this Request shows that the Prlić Defence exercises diligence when representing its client,⁸

CONSIDERING that the Chamber notes that the Prlić Defence did not react during the hearing on 8 March 2010 or in the days that followed to the fact that Judge Prandler mentioned during the testimony of the Accused Milivoj Petković that he had known Viktor Andreev while working at the United Nations Headquarters in New York,

CONSIDERING that the Chamber observes that the Prlić Defence had only realised the extent of the “potential appearance of bias” by Judge Prandler, resulting from the fact that he is “acquainted” with Viktor Andreev, after the Prosecution disclosed the R. Mladić diary on 14 April 2010,⁹

CONSIDERING that the Chamber recalls that the Prlić Defence has known for quite a while, through the *Curriculum Vitae* published on the Tribunal’s internet site,¹⁰ the extent and nature of Judge Prandler’s work at the United Nations Headquarters; that the work was very different to the work he performs in the present case,

CONSIDERING that the Chamber does not, therefore, see any circumstances that would justify a hearing in order for Judge Prandler to provide explanations about his

⁴ Request, paras 5 to 8.

⁵ Request, paras 9 and 10.

⁶ Request, paras 9 and 10.

⁷ Request, para. 10.

⁸ Request, paras 11 to 13.

⁹ Request, paras 4 and 7.

¹⁰ <http://www.icty.org/sid/151>

professional career to a Defence team so that it could file, if necessary, a request for his withdrawal,

CONSIDERING, moreover, that the Chamber notes that the step taken by the Prlić Defence is not governed by any rule in the Rules of Procedure and Evidence (“Rules”); that if the Prlić Defence finds it necessary to question Judge Prandler’s impartiality on the grounds that the remarks he made suggested that he has or has had a personal link to the case, it is incumbent on the Prlić Defence to use Rule 15 (B) of the Rules,

CONSIDERING, consequently, that the present Request should therefore denied,

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 15 (B) of the Rules,

DENIES the Request of the Prlić Defence.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-sixth day of July 2010
At The Hague
The Netherlands

[Seal of the Tribunal]