

**UNITED
NATIONS**



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: 16 December 2010
Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Patrick Robinson, President

Registrar: Mr. John Hocking

Decision: 16 December 2010

PROSECUTOR

v.

**JADRANKO PRLIĆ
BRUNO STOJIC
SLOBODAN PRALJAK
MILIVOJ PETKOVIC
VALENTIN ĆORIĆ
BERISLAV PUŠIĆ**

PUBLIC

**DECISION OF THE PRESIDENT ON PRLIĆ MOTION FOR
THE PRESIDENT TO CONVENE AN INDEPENDENT PANEL OF JUDGES
OR TO CONSULT WITH THE BUREAU**

Office of the Prosecutor:

Mr. Kenneth Scott
Mr. Douglas Stringer

Counsel for the Accused:

Mr. Michael G. Karnavas and Ms. Suzana Tomanovic for Jadranko Prlić
Ms. Senka Nožica and Mr. Karim Khan for Bruno Stojic
Mr. Božidar Kovacic and Ms. Nika Pinter for Slobodan Praljak
Ms. Vesna Alaburic and Mr. Nicholas Stewart for Milivoj Petkovic
Ms. Dijana Tomašegovic-Tomic and Mr. Dražen Plavec for Valentin Ori
Mr. Fahrudin Ibrišimovic and Mr. Roger Sahota for Berislav Pušic

I, Patrick Robinson, President 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”), am seised of “Jadranko Prlić’s Request for the President to Convene an Independent Panel of Judges or to Consult with the Bureau to Determine Whether This Trial Chamber Can Properly Function in Deliberating and Rendering a Fair Judgement”, filed by Mr. Michael G. Karnavas, Counsel for Jadranko Prlić, on 14 December 2010 (“Motion”);

NOTING that, in the Motion, Mr. Karnavas requests, on behalf of Jadranko Prlić, that the President, pursuant to Rules 23 and 54 of the Rules of Procedure and Evidence of the Tribunal (“Rules”), appoint an independent panel of Judges or consult with the other members of the Bureau on the question of whether the Trial Chamber in the *Prlić et al.* case is functioning properly and is capable of deliberating in the manner envisaged by the Statute of the Tribunal (“Statute”) and the Rules, as is the procedure with other duly constituted Trial Chambers;¹

NOTING that Mr. Karnavas argues that the Motion is necessary due to the appearance of irreconcilable differences, bordering upon antipathy, between the three Judges of the Trial Chamber seised of the present case and the fact that this antipathy raises doubts regarding their ability to function as a collective body when deliberating over evidence;

NOTING that Mr. Karnavas states that Prlić is entitled to be tried and judged by a fully functioning Trial Chamber and that a reasonable observer would conclude that a fair procedure in accordance with the Rules and Statute may no longer be possible, citing the number and content of dissenting opinions of the Presiding Judge and the complexity of the proceedings as evidence for this claim;²

NOTING that Mr. Karnavas states that a stay of the proceedings should be considered “if it is determined that the moral integrity of the proceedings will be undermined”;³

CONSIDERING that Article 20(1) of the Statute provides that Trial Chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the Rules, with full respect for the rights of the accused and due regard for the protection of victims and witnesses;

CONSIDERING that Rule 19 of the Rules provides that the President shall preside at all plenary meetings, coordinate the work of the Chambers, supervise the activities of the Registry, exercise all other functions conferred upon him by the Statute and the Rules, and issue Practice Directions; Rule

¹ Motion, pp. 7–8.

² Motion, p. 1, paras 12–18.

³ Motion, para. 19.

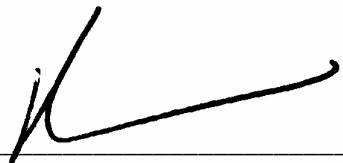
23(B) of the Rules provides that the President shall consult the other members of the Bureau on all major questions relating to the functioning of the Tribunal; and Rule 54 of the Rules provides that, at the request of either party or *proprio motu*, a Judge or a Trial Chamber may issue such orders, summonses, subpoenas, warrants, and transfer orders as may be necessary for the purposes of an investigation or for the preparation or conduct of the trial;

CONSIDERING that Rules 19, 23, and 54 of the Rules do not provide the President with the authority to interfere with a Trial Chamber's responsibility under Article 20(1) of the Statute to ensure that a trial is conducted in a fair and expeditious manner in accordance with the Rules;

CONSIDERING THEREFORE that I have no jurisdiction in relation to the Motion;

HEREBY DISMISS the Motion.

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



Judge Patrick Robinson
President

Dated this sixteenth day of December 2010
At The Hague
The Netherlands

[Seal of the Tribunal]