



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-A
Date: 7 October 2013
Original: English

THE PRESIDENT OF THE TRIBUNAL

Before: Judge Theodor Meron, President

Registrar: Mr. John Hocking

Decision of: 7 October 2013

PROSECUTOR

v.

**JADRANKO PRLIĆ
BRUNO STOJIĆ
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ĆORIĆ
BERISLAV PUŠIĆ**

PUBLIC

**DECISION ON SLOBODAN PRALJAK'S
REQUEST FOR FURTHER REVIEW**

Counsel for the Accused:

Ms. Nika Pinter
Ms. Natacha Fauveau Ivanović

I, THEODOR MERON, 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”);

BEING SEISED OF a confidential and *ex parte* request filed by Slobodan Praljak (“Praljak”) on 12 September 2013 (“Request”),¹ in which Praljak asks: (i) that I review the confidential and *ex parte* “Decision on Slobodan Praljak’s Motion for Review of the Registrar’s Decision on Means” that was issued on 25 July 2013 (“Impugned Decision”) (“First Request”);² and (ii) lift the confidential and *ex parte* status of the “Decision on Slobodan Praljak’s Motion for Provisional Release”, rendered by Trial Chamber III of the Tribunal on 12 September 2012 (“Decision on Provisional Release”), with confidential and *ex parte* Annex, given that the reasons for maintaining its confidential and *ex parte* status “are no longer valid” (“Second Request”);³

NOTING that Praljak submits with respect to the First Request that I did not consider the arguments he put forth in his underlying motion challenging the Registrar’s Decision that was issued on 22 August 2012 (“Decision on Means”),⁴ rejects the “highest probability” standard employed in the Impugned Decision when assessing the Decision on Means, and avers that he was presumed guilty before the indictment against him was issued;⁵

CONSIDERING that Article 26 of the Statute of the Tribunal (“Statute”) and Rule 119 of the Rules of Procedure and Evidence of the Tribunal (“Rules”) permit review of a final judgement, or of a decision which terminates the proceedings;⁶

RECALLING that a “new fact” within the meaning of Article 26 of the Statute and Rule 119 of the Rules pertains to “new information of an evidentiary nature of a fact that was not in issue during the trial or appeal proceedings”,⁷ which “if proved, is such that to ignore it would lead to a miscarriage of justice”;⁸

¹ The Registrar did not file a response.

² A public redacted version was filed on 28 August 2013.

³ Request, p. 4. Praljak further submits that it “is in the interest of all detainees that the *ex parte* status be lifted”. See Request, p. 4.

⁴ See *Prosecutor v. Slobodan Praljak*, Case No. IT-04-74-T, Decision (public, with confidential and *ex parte* Annex I and public Annex II), 22 August 2012 (“Decision on Means”).

⁵ Request, pp. 1-2.

⁶ See *Prosecutor v. Miroslav Kvočka et al.*, Case No. IT-98-30/1-A, Decision on Further Request for Review by Zoran Žigić, 11 March 2003 (“*Kvočka et al.* Decision”), para. 5.

⁷ See *Prosecutor v. Veselin Šljivančanin*, Case No. IT-95-13/1-R.1, Decision with respect to Veselin Šljivančanin’s Application for Review, 14 July 2010 (“*Šljivančanin* Decision”), p. 2.

⁸ *Šljivančanin* Decision, p. 4 (emphasis omitted).

CONSIDERING that Praljak has not adduced a new fact that was not considered in the Impugned Decision;⁹

RECALLING that, “reconsideration is permitted where, *inter alia*, the impugned decision presents a clear error of reasoning or particular circumstances justify its reconsideration in order to avoid an injustice”;¹⁰

CONSIDERING that, even if the Request were treated as a motion for reconsideration, Praljak fails to identify a clear error of reasoning in the Impugned Decision or the existence of circumstances that justify reconsideration in order to prevent an injustice, as he merely repeats previously rejected arguments;¹¹

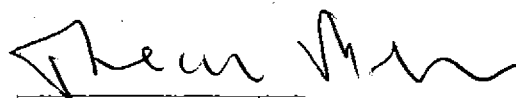
NOTING that the Appeals Chamber of the Tribunal is currently seised of the case of *Prosecutor v. Prlić et al.*, Case No. IT-04-74-A (“*Prlić et al.* case”);¹²

FINDING, accordingly, that the Second Request should have been filed before the Appeals Chamber seised of the *Prlić et al.* case;

HEREBY DENY the Request in its entirety.

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

Done this 7th day of October 2013,
At The Hague,
The Netherlands.


Judge Theodor Meron
President

[Seal of the Tribunal]

⁹ See generally Request, pp. 1-3.

¹⁰ See *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/I-A, Decision on Motion for Reconsideration, 12 July 2012, p. 1. See also *Kvočka et al.* Decision, para. 6.

¹¹ See generally Request, pp. 1-3.

¹² See Order Assigning Judges to a Case Before the Appeals Chamber, 19 June 2013.