



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: 25 August 2008
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 Hans Holthuis

Decision of: 25 August 2008

THE PROSECUTOR

v.

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

PUBLIC

DECISION ON PRLIĆ MOTION FOR RECONSIDERATION

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 Trial Chamber’s *Ordonnance Portant Admission d’Éléments de Preuve Relatifs au Témoin 1D-AA Dated 3 July 2008*” presented confidentially by Counsel for the Accused Jadranko Prlić (“Prlić Defence”) on 10 July 2008 (“Motion”), in which they request the Chamber to reconsider the Order of 3 July 2008,¹

NOTING the Order of 3 July 2008 in which, *inter alia*, the Chamber denied the Prlić Defence application requesting the admission of Exhibit 1D 02366 on the ground that the Prlić Defence failed to specify which pages of the document it was requesting for admission as so required by the Decision of 24 April 2008,²

CONSIDERING that the other parties did not file a response to the Motion,

CONSIDERING that in the Motion, the Prlić Defence submits that Exhibit 1D 02366 is a presidential transcript which was already partially admitted as Exhibit P 00498 on 17 January 2008,³

CONSIDERING that in support of the Motion, the Prlić Defence argues that it had certain previously untranslated pages of the presidential transcript translated and that, for technical reasons, it had to upload them into the “e-court” system under a new number,⁴

CONSIDERING that by way of the Motion, the Prlić Defence now specifies which pages of Exhibit 1D 02366 are requested for admission and requests that they now be admitted by the Chamber,⁵

¹ *Ordonnance Portant Admission d’Éléments de Preuve Relatifs au Témoin 1D-AA*, (“Order of 3 July 2008”).

² Order of 3 July 2008, p. 5; Decision Adopting Guidelines for the Presentation of Defence Evidence, 24 April 2008 (“Decision of 24 April 2008”), Guideline 8, para. 30.

³ Motion, para. 1.

⁴ Motion, para. 1.

⁵ Motion, para. 1.

CONSIDERING that a Trial Chamber has the intrinsic power to reconsider its own decisions and 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 new arguments,⁶ that justify its reconsideration in order to avoid injustice,⁷

CONSIDERING that the Chamber notes that Exhibit 1D 02366 is a presidential transcript of 17 September 1992 that it already partially admitted as Exhibit P 00498 in the “Decision to Admit Presidential Transcript Evidence”, rendered on 17 January 2008,⁸

CONSIDERING that the Chamber notes that the two pages of Exhibit 1D 02366, which the Prlić Defence is currently requesting for admission, pages 1D 52-1079 and 1D 52-1080 of the English version (pages 1D51-0189 and 1D 51-0190 of the BCS version),⁹ were already in the *e-court* system as Exhibit P 00498 at the time Witness 1D-AA appeared, and that the Prlić Defence would have had the opportunity and therefore the duty to refer to this document,

CONSIDERING that that Chamber further notes that the translation of Exhibit P 00498 in its entirety was available in the *e-court* system and that the translation under number P 00498 is identical to the translation under number 1D 02366,

CONSIDERING that, despite this fact, the Chamber considers that the reasons put forward by the Prlić Defence in support of the Motion in no way justify its failure to specify which pages of the document it was requesting for admission – as so required by the Decision of 24 April 2008¹⁰ and which constituted the reason for the denial of the request for admission of Exhibit 1D 02366,¹¹

⁶ *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, “Decision on Defence's Request for Reconsideration”, 16 July 2004, pp. 3-4, 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.

⁷ *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, “Decision on Defence's Request for Reconsideration”, 16 July 2004, pp. 3-4, citing in particular *The Prosecutor v. Zdravko Mucić et al*, Case No. IT-96-21A*bis*, Judgement on Sentence Appeal, 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.

⁸ Decision to Admit Presidential Transcript Evidence, 17 January 2008. The Chamber admitted into the record pages 1, 27 to 30 and 63 to 81 of the English version of Exhibit P 00498 into the *e-court* system.

⁹ Motion, para. 1.

¹⁰ Decision of 24 April 2008, Guideline 8, para. 30.

¹¹ Order of 3 July 2008, p. 5.

CONSIDERING that, as a result, the Chamber finds no clear error in the impugned decision nor any particular circumstance that would justify reconsideration in order to avoid injustice¹² and that, accordingly, the Chamber concludes that the Motion must be denied,

FOR THESE REASONS

IN ACCORDANCE WITH Rule 89 of the Rules,

DENIES the Motion for the reasons set out in this decision.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-fifth day of August 2008
At The Hague
The Netherlands

[Seal of the Tribunal]

¹² *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, “Decision on Defence’s Request for Reconsideration”, 16 July 2004, pp. 3-4, citing in particular *The Prosecutor v. Zdravko Mucić et al*, Case No. IT-96-21A*bis*, Judgement on Sentence Appeal, 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.