



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 April 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:** 16 April 2010

**THE PROSECUTOR**

v.

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

***PUBLIC***

**DECISION ON REQUEST FOR A TEMPORARY ADJOURNMENT FILED  
BY THE PRALJAK DEFENCE**

**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 “Slobodan Praljak’s Request for a Temporary Adjournment”, filed publicly and urgently on 23 March 2010 by Counsel for the Accused Slobodan Praljak (“Praljak Defence”), pursuant to Article 21 of the Statute of the Tribunal (“Statute”), and Rules 54 and 73 of the Rules of Procedure and Evidence (“Rules”) (“Request”),

**NOTING** “Jadranko Prlić’s Submissions in Support of Accused Praljak’s Request for Certification to Appeal the Majority Decision Related to his Submission of 92 *bis* Statements & his Request for a Temporary Adjournment”, filed publicly on 26 March 2010 by Counsel for the Accused Jadranko Prlić (“Prlić Defence”) (“Prlić Submission”),

**NOTING** the “Prosecution Response to Slobodan Praljak’s Request for Certification to Appeal Dated 22 March 2010 and Request for a Temporary Adjournment Dated 23 March 2010”, filed publicly on 26 March 2010 by the Office of the Prosecutor (“Prosecution”) (“Prosecution Response”),

**NOTING** the “Decision on Slobodan Praljak’s Motion to Admit Evidence Pursuant to Rule 92 *bis* of the Rules”, rendered confidentially by the Chamber on 16 February 2010 (“92 *bis* Decision”), by way of which the Chamber decided to send back to the Praljak Defence its request for the admission of the written statements and transcripts of testimonies pursuant to Rule 92 *bis* of the Rules and ordered the Praljak Defence to file a maximum of 20 statements or transcripts of testimonies within a three-week time limit,<sup>1</sup>

**NOTING** the “Order on Request of Praljak Defence Seeking a Stay on the Time Limit Ordered by the Chamber for Filing 20 Written Statements or Transcripts of Evidence Pursuant to Rule 92 *bis* of the Rules”, rendered publicly by the Chamber on 17 March 2010 (“Order of 17 March 2010”), by way of which the Chamber denied

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<sup>1</sup> 92 *bis* Decision, p. 20.

the Praljak Defence request to stay the three-week time limit within which to file the 20 written statements or transcripts of testimonies and ordered the Praljak Defence to file its request for admission by 22 March 2010 at the latest,<sup>2</sup>

**NOTING** the “Decision on Praljak Defence Requests for Certification to Appeal the Decisions of 16 February and 17 March 2010”, rendered publicly on 1 April 2010 (“Certification Decision”), by way of which the Chamber grants the Praljak Defence requests for certification to appeal the 92 *bis* Decision and the Order of 17 March 2010,

**CONSIDERING** that the other Defence teams have not filed a response to the Request,

**CONSIDERING** that in its Request, the Praljak Defence seeks that the proceedings be adjourned until the issue of the interlocutory appeals against the 92 *bis* Decision and the Order of 17 March 2010 is resolved<sup>3</sup> and submits in support of the Request that 1) the Chamber refused to consider the statements it filed pursuant to Rule 92 *bis* of the Rules at this stage of the proceedings,<sup>4</sup> 2) there is uncertainty with respect to whether the Chamber will grant its requests for certification to appeal against the 92 *bis* Decision and the Order of 17 March 2010,<sup>5</sup> 3) the uncertainty as to whether the Praljak Defence will be able to present before the Chamber a large number of exhibits pursuant to Rule 92 *bis* of the Rules does not allow it at this stage of the proceedings to present its case fairly,<sup>6</sup> 4) consequently, it is impossible to hold a fair trial<sup>7</sup> and a temporary adjournment of the trial for the duration of the interlocutory appeal is required,<sup>8</sup> whilst specifying that the adjournment of the trial would result in only a small delay compared to the overall length of the proceedings,<sup>9</sup>

**CONSIDERING** that, in the Prlić Submission, the Prlić Defence supports the Request on the ground that the issue raised in the Praljak Defence request for

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<sup>2</sup> Order of 17 March 2010, p. 4.

<sup>3</sup> Request, para. 1.

<sup>4</sup> Request, para. 10.

<sup>5</sup> Request, para. 11.

<sup>6</sup> Request, paras 10-11.

<sup>7</sup> Request, paras 10, 15-16.

<sup>8</sup> Request, para. 17.

<sup>9</sup> Request, para. 15.

certification to appeal the 92 *bis* Decision and the Order of 17 March 2010 forms an undivided whole together with a temporary adjournment,<sup>10</sup>

**CONSIDERING** that in its Response, the Prosecution opposes the adjournment of the trial on the grounds that a temporary suspension of proceedings is an exceptional measure, that the Praljak Defence has failed to show any prejudice that would require an adjournment, and that there is no basis in this case that would justify such a suspension,<sup>11</sup>

**CONSIDERING** that a temporary adjournment is an exceptional measure<sup>12</sup> and that, when a Trial Chamber is seized of a request for adjournment of proceedings, it examines whether the continuation of proceedings might jeopardize the fair conduct and integrity of the trial as guaranteed by Articles 20 (1) and 21 (4) (c) of the Statute,<sup>13</sup>

**CONSIDERING** that the Chamber notes that the arguments raised by the Praljak Defence in support of its Request, namely the uncertainty as to whether it will be able to present a large number of exhibits pursuant to Rule 92 *bis* of the Rules and the impossibility under these circumstances of presenting its case fairly, do not differ from those presented in support of the Praljak Defence request for certification to appeal the 92 *bis* Decision,

**CONSIDERING** that, in the Certification Decision, the Chamber held that the request for certification to appeal the 92 *bis* Decision introduced by the Praljak Defence “raises a question of principle relating to the use and application of Rule 92 *bis* of the Rules, and that this issue would significantly affect the fair conduct of the proceedings and its outcome in that it is, according to the Praljak Defence, crucial to the presentation of its case”,<sup>14</sup> and that “Article 21 (2) of the Statute, which guarantees

<sup>10</sup> Prlić Submission, paras 7 and 9.

<sup>11</sup> Prosecution Response, para. 23.

<sup>12</sup> See in this regard, *The Prosecutor v. Dusko Tadić*, IT-94-1-A, Judgement, 15 July 1999, para. 55; *The Prosecutor v. Milan Lukić and Sredoje Lukić*, IT-98-32/1-T, “Decision on Milan Lukić’s Notice of Verification of Alleged Victim Survivors and Application for Stay of Proceedings with Exhibits A through H”, public, 12 March 2009 (“*Lukić Decision*”), para. 12.

<sup>13</sup> *The Prosecutor v. Vojislav Šešelj*, IT-03-67-AR-73.8, “Decision on Prosecution’s Appeal Against the Trial Chamber’s Order Regarding the Resumption of Proceedings”, 16 September 2008, paras 7-8; *The Prosecutor v. Momčilo Krajišnik*, IT-00-39-T, “Decision on Defence Motion to Stay Proceedings”, 28 September 2005, p. 2; *Lukić Decision*, para. 12.

<sup>14</sup> Certification Decision, p. 5.

the Accused's right to a fair trial, is central to the issue raised by the Praljak Defence in requesting certification to appeal the 92 *bis* Decision",<sup>15</sup>

**CONSIDERING** that, consequently, the Chamber certified the appeal of the 92 *bis* Decision as well as the Order of 17 March 2010 pursuant to Rule 73 (B) of the Rules,<sup>16</sup>

**CONSIDERING** that the Chamber notes that, in support of its request for adjournment, the Praljak Defence specifically refers in its Request to the uncertainty as to whether the certification to appeal the 92 *bis* Decision and the Order of 17 March 2010 will be granted; that this uncertainty no longer exists insofar as the Chamber certified the appeal of these two decisions; that this issue is, therefore, now moot,

**CONSIDERING** that the Chamber notes that, in support of its request for adjournment, the Praljak Defence also refers to the uncertainty with regard to the final admission of its statements and transcripts of testimony filed pursuant to Rule 92 *bis* of the Rules; that this uncertainty is the very subject of the above-mentioned certification to appeal and that this issue is currently pending before the Appeals Chamber; that it is, consequently, moot before the Chamber,

**CONSIDERING** that, furthermore, the Chamber recalls that the issue of the fair conduct of the proceedings, as also raised by the Praljak Defence in support of its request for adjournment, is one of the requirements for certification to appeal; that this issue, as mentioned above, was taken into consideration by the Chamber in granting the request for certification of the 92 *bis* Decision and the Order of 17 March 2010,

**CONSIDERING**, finally, that the Chamber notes that the Praljak Defence closed the presentation of its case on 13 October 2009<sup>17</sup> and that with the exception of the evidence presented pursuant to Rule 92 *bis* of the Rules, the settlement of which is currently the subject of an appeal, the Praljak Defence has presented all its other evidence before the Chamber,

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<sup>15</sup> *Ibidem.*

<sup>16</sup> Certification Decision, p. 7.

<sup>17</sup> Date of the appearance of the last witness called by the Praljak Defence; 92 *bis* Decision, para. 47.

**CONSIDERING** that the Chamber finds that the Praljak Defence has not, therefore, referred to any particular circumstance that would warrant the implementation of an exceptional decision such as the adjournment of proceedings,

**CONSIDERING**, consequently, that the Chamber fails to see in what way the continuation of the trial until the Appeals Chamber issues its verdict would be prejudicial to the Accused Praljak, or in what way the continuation would jeopardize the right of the Accused Praljak to a fair trial, and this is especially so since, to date, only one witness still has to appear before the Chamber,

**CONSIDERING** that the Chamber decides, consequently, not to grant the Request,

**FOR THE FOREGOING REASONS,**

**PURSUANT TO** Articles 20 and 21 of the Statute and Rule 54 of the Rules,

**DENIES** the Request,

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

*/signed/*

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Jean-Claude Antonetti  
Presiding Judge

Done this sixteenth day of April 2010  
At The Hague  
The Netherlands

[Seal of the Tribunal]