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: 20 September 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: **20 September 2010**

THE PROSECUTOR

v.

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

PUBLIC

DECISION ON THE PRLIĆ DEFENCE MOTION TO STAY THE PROCEEDINGS

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 Stay of Proceedings Until a Decision Has Been Issued on Jadranko Prlić's Motion For Disqualification of Judge Prandler, filed on 30 August 2010", filed publicly by Counsel for the Accused Jadranko Prlić ("Prlić Defence") on 3 September 2010, in which the Prlić Defence argues that it is in the interest of justice to stay the proceedings until such time as the issues raised in the Motion for Disqualification of Judge Prandler are fully resolved ("Motion for Stay"),[1]

NOTING "Jadranko Prlić's Motion for Disqualification of Judge Prandler", filed publicly, with three confidential annexes, on 30 August 2010 by the Prlić Defence before the Judges of the Prlić Chamber, in which the Prlić Defence, pursuant to Rule 15(B) of the Rules of Procedure and Evidence ("Rules") seeks the disqualification of Judge Prandler ("Motion for Disqualification Before the Prlić Chamber"),[2]

NOTING the "Prosecution Consolidated Response to Prlić Motion for Disqualification of Judge Prandler, Report of Judge Antonetti and Motion for Stay", filed confidentially on 10 September 2010 by the Office of the Prosecutor ("Prosecution"; "Prosecution Response"), in which the Prosecution opposes the stay of the proceedings,[3]

NOTING the "Decision of the President on Jadranko Prlić's Motion to Disqualify Judge Árpád Prandler", filed publicly on 16 September 2010 by the President of the Tribunal ("Decision of the President of the Tribunal"), in which, on the basis of Rule 15(B) of the Rules, he rejected the Motion for Disqualification Before the Prlić Chamber on the grounds that the Prlić Defence should not have seized the Prlić Chamber of the said Motion but should have applied directly to the Presiding Judge of

[1] Motion for Stay, p. 1 and para 5.
[2] Motion for Disqualification Before the Prlić Chamber, pp. 1 and 9.
[3] Prosecution Response, para 30.

Trial Chamber III, Judge O-Gon Kwon[4], recalling, nonetheless, that the Chamber is still seized of the Motion for Stay,[5]

NOTING "Jadranko Prlić's Motion for Disqualification of Judge Prandler", filed publicly with three confidential annexes on 16 September 2010 by the Prlić Defence before the Presiding Judge of Trial Chamber III, Judge O-Gon Kwon ("Motion for Disqualification Before the Presiding Judge of Trial Chamber III"), in which the Prlić Defence, pursuant to Rule 15(B) of the Rules, seeks the disqualification of Judge Prandler,[6]

CONSIDERING that the Chamber notes that, according to the Prlić Defence, the Motion for Stay was justified by the existence of the Motion for Disqualification Before the Prlić Chamber,[7]

CONSIDERING, following the Decision of the President of the Tribunal, that the Motion for Disqualification Before the Prlić Chamber was rejected and that the Prlić Defence filed a Motion for Disqualification Before the Presiding Judge of Trial Chamber III without having filed a new motion for a stay of the proceedings,

CONSIDERING, nevertheless, as mentioned in the Decision of the President of the Tribunal, that the Prlić Chamber is still seized of the Motion for Stay,

CONSIDERING that the Chamber, therefore, does not find it necessary to request a new motion for a stay of the proceedings, even though the Motion for Disqualification Before the Prlić Chamber was rejected,

CONSIDERING, in the case in point, that the Chamber holds, in the interest of justice, that a temporary stay of the proceedings is necessary until a decision in response to the Motion for Disqualification Before the Presiding Judge of Chamber III has been rendered,

[4] Decision of the President of the Tribunal, para. 6.
[5] Decision of the President of the Tribunal, para. 7.
[6] Motion for Disqualification Before the Presdiing Judge of Trial Chamber III, p. 1 and 9.
[7] Motion for Stay, p. 1.

FOR THE FOREGOING REASONS,

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

GRANTS the Motion for Stay and,

ORDERS an adjournment of the proceedings until a decision in response to the Motion for Disqualification Before the Presiding Judge of Chamber III has been rendered.

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

/signed/

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Jean-Claude Antonetti
Presiding Judge

Done this 20 September 2010
At The Hague
The Netherlands

[Seal of the Tribunal]