



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: 23 March 2009
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

Acting Registrar: Mr John Hocking

Decision of: 23 March 2009

THE PROSECUTOR

v.

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

PUBLIC

**DECISION ON A STOJIĆ DEFENCE REQUEST REGARDING
REFERENCES TO CONFIDENTIAL DECISIONS RENDERED BY OTHER
CHAMBERS**

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 Tomašević-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 “Bruno Stojić’s Response to ‘Prosecution Motion to Strike Witness Summary for Stojić Witness Dragan Pinjuh and to Preclude Witness’”, filed by Counsel for the Accused Stojić (“Stojić Defence”) on 27 February 2009, in which the Stojić Defence responded to the “Prosecution Motion to Strike Witness Summary for Stojić Witness Dragan Pinjuh and to Preclude Witness”, filed confidentially by the Office of the Prosecutor (“Prosecution”) on 26 February 2009 (“Prosecution Motion”) and principally requested that the Chamber order the Prosecution not to cite confidential decisions from other Chambers or, in the alternative, to give the Defence teams access to these confidential decisions cited by the Prosecution (“Stojić Defence Request”),

NOTING the Decision on a Second Prosecution Motion to Exclude the Evidence of Dragan Pinjuh, rendered by the Chamber on 3 March 2009 (“Decision of 3 March 2009”), in which the Chamber denied the Prosecution Motion and stayed its ruling on the Stojić Defence Request,

CONSIDERING that the Chamber will now consider the part of the Stojić Defence Request related to the access by the Defence teams to confidential decisions rendered by other Chambers of the Tribunal,

CONSIDERING that in support of its Request, the Stojić Defence alleges that several confidential decisions from the *Mrkšić* case¹ were cited in the Prosecution Motion,²

CONSIDERING that the Stojić Defence argues that the Prosecution’s citing of confidential decisions, to which the Defence teams have no access, violates the principle of equality of arms,³

¹ IT-95-13/1-T, *The Prosecutor v. Mile Mrkšić et al.* (“*Mrkšić* case”).

² Stojić Defence Request, para. 11.

³ *Id.*

CONSIDERING that the Chamber holds that it would be unfair to permit the Prosecution to use the confidential decisions from other Chambers of the Tribunal as the basis for the arguments it puts forward in its submissions, since the Defence teams have no access to them,

CONSIDERING that if the Prosecution still feels that in one of its submissions it must cite confidential decisions rendered by other Chambers, it will be incumbent upon it to obtain a public redacted version of the confidential decisions in question from the appropriate Chamber, before the submission is filed,

CONSIDERING that the Chamber will not take into account any arguments based on confidential decisions for which the Prosecution has failed to obtain a public redacted version, as required by the present decision,

FOR THESE REASONS,

IN ACCORDANCE WITH Article 21 of the Statute of the Tribunal and Rule 54 of the Rules of Procedure and Evidence,

GRANTS the Stojić Defence Request, and

ORDERS the Prosecution to obtain public and redacted versions of the confidential decisions it intends to cite in its submissions prior to filing those submissions.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-third day of March 2009
At The Hague
The Netherlands

[Seal of the Tribunal]