

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

Case No.: MICT-17-112

Date: 28 February 2018

Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Bakone Justice Moloto
Judge Carmel Agius
Judge Aydin Sefa Akay
Judge Liu Daqun

Registrar: Mr. Olufemi Elias

Order of: 28 February 2018

PROSECUTOR

v.

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

PUBLIC

**ORDER VACATING THE ORDERS IN RELATION TO THE
RECOVERY OF LEGAL AID FUNDS**

The Office of the Prosecutor
Mr. Serge Brammertz

Government of Bosnia and Herzegovina

Counsel for Mr. Slobodan Praljak
Ms. Nika Pinter and Ms. Natacha Fauveau-Ivanović

Government of the Republic of Croatia

THE APPEALS CHAMBER of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” and “Mechanism” respectively);¹

NOTING that, on 13 May 2014, the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) in the case of the *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A (“*Prlić et al.* case”), at the request of the Registrar of the ICTY,² ordered Mr. Slobodan Praljak (“Praljak”) to reimburse the ICTY €2,807,611.10 for the costs the ICTY sustained in providing him with legal aid;³

NOTING that, on 26 October 2016, the Appeals Chamber of the ICTY considered that Praljak has failed to reimburse the ICTY, reiterated his obligation to do so, and again ordered him to reimburse the €2,807,611.10 owed to the ICTY;⁴

NOTING that, on 6 September 2017, the Appeals Chamber of the ICTY considered that Praljak had taken no action to reimburse the ICTY and ordered, *inter alia*, Bosnia and Herzegovina and the Republic of Croatia to take appropriate steps to freeze Praljak’s assets in their territories, and to ensure that this order be enforceable in their respective domestic jurisdictions;⁵

NOTING that, on 22 November 2017, the Appeals Chamber of the ICTY instructed the Registrar of the ICTY to take all necessary steps to ensure that the Mechanism is apprised of the outstanding matter of the recovery of funds from Praljak, totalling €3,020,542.75, which encompasses his defence for pre-trial, trial, and appellate proceedings;⁶

NOTING the submission filed on 27 November 2017, confirming that the Registry of the ICTY was in the process of handing over the matter to the Mechanism;⁷

NOTING the issuance of the appeal judgement in the *Prlić et al.* case and the death of Praljak on 29 November 2017;⁸

¹ Order Assigning Judges to a Case Before the Appeals Chamber, 24 January 2018 (confidential and *ex parte*).

² *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Registrar’s Application for the Recovery of Legal Aid Funds, 20 January 2014 (public with confidential and *ex parte* annex).

³ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Order on the Registrar’s Application Pursuant to Rule 45(E) of the Rules, 13 May 2014 (“Order of 13 May 2014”), paras. 1, 24.

⁴ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Order Concerning Non-Receipt of Funds, 26 October 2016 (“Order of 26 October 2016”), pp. 1, 2. The Appeals Chamber of the ICTY further warned Praljak that, should he fail to comply with the Order of 26 October 2016, “all appropriate action for its enforcement and the recovery of the amount due” will be taken. See Order of 26 October 2016, p. 2.

⁵ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Order to Bosnia and Herzegovina and the Republic of Croatia Pursuant to Article 29, 6 September 2017 (confidential) (“Order of 6 September 2017”), pp. 2, 4.

⁶ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Instruction to Registrar on Recovery of Legal Aid Funds, 22 November 2017, p. 2.

⁷ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Deputy Registrar’s Submission Concerning the Recovery of Legal Aid Funds, 27 November 2017, paras. 1, 2.

NOTING that the ICTY ceased its judicial functions on 30 November 2017 and can no longer pursue the matter;⁹

NOTING the confidential and *ex parte* submissions of the Prosecutor's Office of Bosnia and Herzegovina filed on 11 January 2018 in response to the Order of 6 September 2017;¹⁰

NOTING that, on 14 February 2018, the Registrar filed a confidential and *ex parte* submission stating that he has conducted his own investigations, and considered that: (i) regarding potential assets in the Republic of Croatia: since Praljak transferred the majority of his assets in 2001 and 2004 without being challenged within the three-year limit, his inherited estate is minimal in value, "the likelihood of collection of the funds is therefore minimal", and the procedures to do so would take between five to eight years; and (ii) regarding potential assets in Bosnia and Herzegovina: according to its domestic law, such a recovery could only result from criminal proceedings that had been held before local courts;¹¹

NOTING that the Registrar would not recommend pursuing the recovery of the remaining funds in domestic proceedings given the "low likelihood" of recovering its vast majority and the "expected length of time of such a process";¹²

NOTING FURTHER the Registrar's recommendation that the Appeals Chamber should therefore annul the Orders of 13 May 2014 and 6 September 2017;¹³

CONSIDERING that Praljak was personally ordered to reimburse the totality of the amount owed for his defence in the *Prlić et al.* case,¹⁴ and the change in circumstances following his death;

CONSIDERING the Submissions of the Registrar, in particular, the "low likelihood" to recover the vast majority of the funds, the expected length of time for such a process, and his consequent recommendation to not pursue its recovery in domestic proceedings;¹⁵

⁸ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Judgement, 29 November 2017 (public with confidential Annex); Statement on passing of Slobodan Praljak, 29 November 2017, <http://www.icty.org/en/press/statement-on-passing-of-slobodan-praljak> (accessed 19 February 2018).

⁹ See U.N. Doc. A/72/266 & S/2017/662, 1 August 2017, para. 80; U.N. Doc. S/Res/2329 (2016), 19 December 2016, paras. 2, 4.

¹⁰ The Republic of Croatia filed its submissions following the Order of 6 September 2017 before the ICTY on 9 October 2017. See *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Submissions of the Republic of Croatia, 9 October 2017 (confidential and *ex parte*).

¹¹ Registrar's Submission Concerning the Recovery of Legal Aid Funds, 14 February 2018, (confidential and *ex parte* with a confidential and *ex parte* Annex) ("Submissions of the Registrar"), paras. 2-5, Annex.

¹² Submissions of the Registrar, para. 5.

¹³ Submissions of the Registrar, paras. 5, 6.

¹⁴ See Order of 26 October 2016, p. 2; Order of 13 May 2014, para. 24.

¹⁵ See Submissions of the Registrar, para. 5.

CONSIDERING that, in the specific circumstances of this case, it is prudent to vacate the Orders of 13 May 2014 and 6 September 2017, as recommended by the Registrar;

CONSIDERING that the Order of 26 October 2016 was issued against Praljak in relation to the same matter;

PURSUANT to Rules 31(B), 55 and 131 of the Rules of Procedures and Evidence of the Mechanism;

HEREBY VACATES the Orders of 13 May 2014, 26 October 2016, and 6 September 2017.

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

Done this 28th day of February 2018,
At The Hague,
The Netherlands.



Judge Theodor Meron
Presiding Judge

[Seal of the Mechanism]



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