



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-95-5/18-T

Date: 14 June 2011

Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding Judge
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Order of: 14 June 2011

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**ORDER IN RELATION TO WITNESS STATEMENTS ADMITTED
PURSUANT TO RULE 92 *BIS***

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Standby Counsel

Mr. Richard Harvey

THIS TRIAL 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”) hereby issues, *proprio motu*, this Order in relation to witness statements admitted under Rule 92 *bis* of the Tribunal’s Rules of Procedure and Evidence (“Rules”).

1. Over the course of these proceedings, the Office of the Prosecutor (“Prosecution”) has tendered for admission numerous witness statements and/or transcripts of witness testimony pursuant to Rule 92 *bis*. Often, when such material originated from a protected witness it was offered and admitted under seal.¹ Where possible, and to safeguard the public nature of the proceedings, the Chamber instructed the Prosecution to file public redacted versions of the same.²

2. More specifically, the Chamber has admitted the witness statements and transcripts of prior testimony of protected witnesses KDZ023, KDZ036, KDZ079, KDZ090, and KDZ289, pursuant to Rule 92 *bis* of the Rules.³ This material was offered to the Chamber under seal. With respect to KDZ023, the Chamber ordered that the transcript of her testimony in the *S. Milošević* case be admitted publicly.⁴ With respect to the remaining witnesses, namely, KDZ036, KDZ079, KDZ090, and KDZ289, the Chamber also ordered the Prosecution to file public redacted versions of the transcripts of their prior testimony, and the Prosecution eventually complied.⁵ However, due to the Chamber’s oversight, the Prosecution was not ordered to file public redacted versions of the witness statements of these witnesses admitted in evidence.⁶ Accordingly, while the transcripts of the witnesses’ testimony in evidence are either public or have a public redacted version there is currently no public version of the witnesses’ statements in evidence.

3. The Chamber recalls that Articles 20 and 21 of the Statute of the Tribunal (“Statute”) and Rules 78 and 79 of the Rules require all proceedings before a Trial Chamber to be public

¹ See, e.g., Decision on Prosecution’s First Motion for Admission of Statements and Transcripts of Evidence In Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis*, 10 November 2009 (“Decision on First Rule 92 *bis* Motion”); Decision on Prosecution’s Fourth Motion for Admission of Statements and Transcripts In Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis* – Sarajevo Siege Witnesses, 5 March 2010 (“Decision on Fourth Rule 92 *bis* Motion”).

² See, e.g., Decision on Fourth Rule 92 *bis* Motion, para. 77(c).

³ The witness statement and transcript for witness KDZ023 were admitted pursuant to the Decision on First Rule 92 *bis* Motion, para. 47(1)(b). The witness statements and transcripts for the other witnesses listed in paragraph 2 above were admitted pursuant to the Decision on Fourth Rule 92 *bis* Motion, para. 77(c).

⁴ Further Decision on Prosecution’s First 92 *bis* Motion (Witnesses for Eleven Municipalities), 9 February 2010, para. 41.

⁵ Decision on Fourth Rule 92 *bis* Motion, para. 77(c).

unless an exceptional reason exists for keeping certain information confidential. Given that much of the evidence of the witnesses named above, insofar as their prior testimony is concerned, is already in the public domain, the Chamber considers that their witness statements should also be made public to the maximum extent possible.

4. Accordingly, the Chamber, pursuant to Articles 20 and 21 of the Statute and Rules 54, 78, and 79 of the Rules, hereby **ORDERS** the Prosecution to:

- i. file public redacted versions of the witness statements bearing exhibit numbers P89, P92, P477, P480, P483, and P486; or
- ii. if it is not possible to do so, file a submission explaining why that is the case.

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



Judge O-Gon Kwon
Presiding

Dated this fourteenth day of June 2011
At The Hague
The Netherlands

[Seal of the Tribunal]

⁶ The relevant exhibit numbers of witness statements associated with each witness are: KDZ023: P89 and P92; KDZ036: P477; KDZ079: P480; KDZ090: P483; and KDZ289: P486.