

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-95-14-R77.6

**THE PROSECUTOR
OF THE TRIBUNAL**

AGAINST

DOMAGOJ MARGETIĆ

INDICTMENT

The Prosecutor of the International Criminal Tribunal for the former Yugoslavia (“Tribunal”), pursuant to her authority under Article 18 of the Statute of the Tribunal and Rule 77 of the Rules of Procedure and Evidence (“Rules”) of the Tribunal, charges:

DOMAGOJ MARGETIĆ

with **CONTEMPT OF THE TRIBUNAL** punishable under the Tribunal’s inherent power, Rule 77(A), Rule 77(A)(ii) and Rule 77 (A)(iv) of the Rules.

THE ACCUSED

DOMAGOJ MARGETIĆ (“MARGETIĆ”), born on 9 January 1974 in Zagreb, son of Mihael Željko and Nevenka nee Engelman, a citizen of the Republic of Croatia, freelance journalist, formerly editor-in-chief of *Novo Hrvatsko Slovo* and editor-in-chief of the Zagreb-based weekly publication *Hrvatsko Slovo*, presently detained in custody in Zagreb pursuant to Zagreb County Court Decision No. XX-KIR-4285/06 dated 6 August 2006.

CHARGE

**COUNT 1
CONTEMPT OF THE TRIBUNAL**

1. The Trial Chamber in *The Prosecutor v. Blaškić* case (Case No. IT-95-14) (“*Blaškić* case”) issued oral and written protective measures orders in relation to a number of fact witnesses and international witnesses, which orders included:
 - (1) Decision of Trial Chamber I on the Requests of the Prosecutor of 12 and 14 May 1997 in respect of the Protection of Witnesses dated 6 June 1997, filed on 10 June 1997.

- (2) Decision of Trial Chamber I on the Prosecutor's Requests of 5 and 11 July 1997 for Protection of Witnesses dated 10 July 1997, filed on 15 July 1997.
- (3) Decision of Trial Chamber I on the Prosecutor's Motion for Video Deposition and Protective Measures of 11 November 1997 (English translation dated 13 November 1997, filed on 3 December 1997).
2. **MARGETIĆ** was previously an accused in an ICTY contempt case. In Case No. IT-95-14-R77.5, **MARGETIĆ** was accused of publishing protected witness information from the *Blaškić* case in the newspaper *Novo Hrvatsko Slovo* after he received an ICTY cease and desist order (*Prosecutor v. Šešelj, Margetić and Križić*, Case No. IT-95-14-R77.5). **MARGETIĆ** represented himself in that case. The complete *confidential* witness list ("Witness List") from the *Blaškić* case was provided to **MARGETIĆ** as Exhibit 47(f) of the Prosecution's Rule 65ter Exhibit List which was filed on 22 March 2006. The Prosecution exhibits were disclosed to **MARGETIĆ** on 2 May 2006, cover letter dated 6 April 2006, with explicit notice to the effect that:

"...this material is subject to oral and written non-disclosure orders. None of this material is to be used or disclosed for any purpose not directly related to the preparation and presentation of the above-titled cases. It may not be used for any other purpose, including as to any other case or proceeding at the ICTY."

3. On or about 7 July 2006, **MARGETIĆ** published on his website www.domagojmargetic.com ("Web Site"), the Witness List which revealed the identities of protected witnesses. The Witness List includes the identities of 51 witnesses who were given pseudonyms and 21 witnesses who were protected by oral orders to testify in closed session in the *Blaškić* case. The version of the Witness List published by **MARGETIĆ** contains both type-written and hand-written notations in the header of the document which clearly indicate that the document is confidential.
4. On or about 7 July 2006, **MARGETIĆ** published on his Web Site an article authored by him which accompanied the Witness List where he acknowledged that the witness identities he disclosed were protected ("First Article"). He stated in this article that he was aware that the document he had been provided by the Prosecution was confidential, and of the possible consequences of making it public. The headline of the article proclaims that the Witness List is a "list of confidential witnesses in The Hague given to me by an assistant of Carla Del Ponte", which article contains the following excerpt:

". . . Just over two months ago I received from an assistant of Carla Del Ponte a list of all the protected witnesses from the Blaškić case before the Hague Tribunal.

*...
from their experience thus far, the Prosecution also knew that I would, sooner or later, publish that confidential document, because I have done so before. I have said that I would always and*

regardless of the people in question always do the same: publish the information I obtain.

...

*I have decided to publish the list I received from the Prosecution in The Hague.
Domagoj Margetić”*

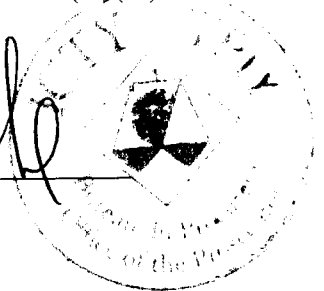
5. On or about 15 July 2006, **MARGETIĆ** also authored and published two articles on his Web Site (“Second Articles”). One article revealed the identities of two protected (international) witnesses who testified in non-public proceedings in the *Blaškić* case. The article also identified the date of the testimony and pseudonym of one of the two witnesses (first protected witness) and the fact that the witness testified in closed session. The other article revealed the identity, pseudonym and date of testimony of the other protected witness (second protected witness) and, *inter alia*, the fact that the witness testified in closed session.
6. The First Article was subsequently published on website www.011385.com with a hyperlink to the Witness List on the Web Site.
7. The Second Articles were subsequently published on website www.lijepanasadomovinahrvatska.com and www.011385.com, on or about 15 July 2006, with a hyperlink to the Web Site.
8. On 28 July 2006, the Prosecutor filed an *ex parte* and confidential Urgent Motion for an Order for the Immediate Cessation of Violations of Protective Measures. On the same day, the Duty Judge of the Tribunal issued an Order on the Implementation of Protective Measures (“Order”), ordering **MARGETIĆ** “immediately to cease and abstain from any publication of the identities of witnesses who testified in close session and/or under a pseudonym in the *Blaškić* case, and to specifically remove the *Blaškić* witness list from the website www.domagojmargetic.com.”
9. Pursuant to the Order, the web host of the Web Site temporarily closed down the Web Site on 1 August 2006.
10. On 1 August 2006, the authorities of the Republic of Croatia summoned **MARGETIĆ** to appear at the Zagreb County Court on 4 August 2006 to accept service of the Order from a Judge of that court. On 2 August 2006, **MARGETIĆ** he was quoted by HINA, a Croatian news agency, as stating that:

“he did not know about the injunction’s contents, but that he assumed this would be about the Hague tribunal’s request for ‘taking protective measures’ against him after he published a list of all the protected prosecution witnesses from the trial of Bosnian Croat General Tihomir Blaskic on his website three weeks ago.”
11. **MARGETIĆ** attended at the Zagreb County Court on 4 August 2006 and refused to accept service of the Order. At the hearing, **MARGETIĆ** stated to the Investigative Judge at the Zagreb County Court that the disputed material had been removed from the internet Web Site. The hyperlink to the Witness List had

been removed, however, links to the Second Articles containing information about protected witnesses remained accessible on his Web Site.

12. **MARGETIĆ** knowingly and wilfully interfered with the administration of justice by publishing on or about 7 July 2006 until 2 August 2006 the Witness List and First and Second Articles on his Web Site.
13. **MARGETIĆ** published the Witness List and First and Second Articles on his Web Site in knowing violation of protective measures orders of the *Blaškić* Trial Chamber. The applicable court orders breached by the disclosure of the identities of protected witnesses include those set out in paragraph 1(1)-(3) above.
14. **MARGETIĆ**, by publishing the Witness List and First and Second Articles on his Web Site and by exposing this protected material to a wider audience through its publication and dissemination by other internet web users either copying the protected material to other internet web sites and/or hyperlinking to the offending material on the Web Site, undermines confidence in the Tribunal's ability to grant effective protective measures, and by such acts, **MARGETIĆ** interfered with witnesses who have given, or are about to give evidence in proceedings before a Chamber or other potential witnesses.
15. By these acts, **MARGETIĆ** committed contempt of the Tribunal under the Tribunal's inherent power and Rule 77(A), Rule 77(A)(ii) and Rule 77(A)(iv) of the Rules.


Carla Del Ponte
Prosecutor



Dated this thirtieth day of August 2006
At The Hague
The Netherlands