



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-06-90-T  
Date: 20 November 2009  
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding  
Judge Uldis Ķiniš  
Judge Elizabeth Gwaunza  
Registrar: Mr John Hocking  
Order of: 20 November 2009

PROSECUTOR

v.

ANTE GOTOVINA  
IVAN ČERMAK  
MLADEN MARKAČ

*PUBLIC*

---

ORDER ON STATUS OF EXHIBITS ADMITTED UNDER RULES 92 *BIS* AND 92  
*QUATER*

---

Office of the Prosecutor

Mr Alan Tieger  
Mr Stefan Waespi

Counsel for Ante Gotovina

Mr Luka Mišetić  
Mr Gregory Kehoe  
Mr Payam Akhavan

Counsel for Ivan Čermak

Mr Steven Kay, QC  
Mr Andrew Cayley  
Ms Gillian Higgins

Counsel for Mladen Markač

Mr Goran Mikuličić  
Mr Tomislav Kuzmanović

## Background

1. During the Prosecution's case, the Chamber admitted into evidence a number of documents pursuant to Rules 92 *bis* and 92 *quater* of the Tribunal's Rules of Procedure and Evidence ("Rules").<sup>1</sup> Most of the documents admitted under these Rules were initially admitted under seal, in order to give the Prosecution an opportunity to consider whether any protective measures would be necessary for the documents. The Prosecution informed the Chamber about its position and in most instances clarified that it would not seek any protective measures.<sup>2</sup>
2. After informal discussions between Chamber's staff and the Prosecution in July 2009, the Prosecution decided to upload into eCourt redacted versions of selected witness statements, in order to protect from the public potentially sensitive information, such as addresses or passport numbers. The Defence was subsequently informed about the uploaded documents by the Prosecution. The witness statements of Witnesses Jovan Mirković, Smiljana Mirković, and Dušan Torbica, after provisionally being admitted into evidence under seal, had been uploaded together with the respective Rule 92 *bis* attestations. However, in its Third Decision on Rule 92 *bis* Witnesses of 3 November 2008, the Chamber ordered that the attestations are to remain under seal. Accordingly, the Prosecution has now uploaded the respective statements without the attestations.
3. The Chamber considers that since the substantive evidentiary record would not change when admitting redacted versions of already admitted exhibits, it is not

---

<sup>1</sup> Decision on the Admission of Statements of Two Witnesses Pursuant to Rule 92 *Quater*, 24 April 2008; Decision on the First Batch of Rule 92 *Bis* Witnesses, 3 June 2008; Decision on the Admission of Statements of Seven Witnesses Pursuant to Rule 92 *Quater*, 16 June 2008; Decision on the Admission of Statements of Four Witnesses Pursuant to Rule 92 *Quater*, 24 July 2008; Decision on the Second Batch of Rule 92 *Bis* Witnesses, 24 July 2008; Third Decision on Rule 92 *Bis* Witnesses, 3 November 2008; Decision on the Admission of Statements of Two Witnesses and Associated Documents Pursuant to Rule 92 *Quater*, 16 January 2009; Decision on Prosecution's Third Motion for Admission of Evidence Pursuant to Rule 92 *Bis*, 5 March 2009; Decision on the Admission of a Witness Statement Pursuant to Rule 92 *Quater*, 5 March 2009.

<sup>2</sup> See e.g. Prosecution's Report on Protective Measures for Witness 11 and Witness 42, 20 May 2008 (in relation to Witness Bogdan Dobrić); T. 10757 (in relation to Witness Radoslav Ognjenović); Prosecution's Submission regarding Decision on the First Batch of Rule 92 *Bis* Witnesses and Motion to Admit Redacted Written Statement of Witness 66 Pursuant to Rule 92 *Bis*, 10 June 2008 (in relation to Witnesses Jovan Mirković, Smiljana Mirković, and Dušan Torbica); Prosecution's Notification Regarding Protective Measures, 31 July 2008 (in relation to Witnesses Bogdan Brkić, Zdravko Bunčić, Konstantin Drča, Milica Karanović, and Jovan Popović); T. 14834-14835 (in relation to Witnesses Stevan Zarić, Dušan Dragičević, and Junjga Dragutin); T. 15537 (in relation to Witnesses Petar Čolović, Vesela Damjanić, Jovan Grubor, Petar Knežević, Milan Letunica, Ilija Mirković, Manda Rodić, and Petro Romashev); Prosecution's Notification Regarding Protective Measures for Witnesses 43 and 46 And Prosecution's Eighteenth Motion for Trial-Related Protective Measures (Witness 67), 9 March 2009 (in relation to Witnesses Nikola Plavša and Ružica Šarac).

necessary to invite further submissions from the Defence. Furthermore, none of the Defence teams have raised objections in relation to the uploaded documents.

4. The Chamber further notes that for some documents the Prosecution neither has requested protective measures nor considered that potentially sensitive information should be redacted and accordingly finds it appropriate to, if not done already on a previous occasion, lift the confidential status of those documents.<sup>3</sup>

5. Some documents<sup>4</sup> whose status was lifted by the Chamber on 24 February 2009<sup>5</sup> need, due to the Prosecution's sought redactions of potentially sensitive information, to be put under seal again. At the same time, the Chamber notes that the documents admitted in its Third Decision on Rule 92 *bis* Witnesses of 3 November 2008 were admitted as public documents whereas they should have been admitted at least provisionally under seal. These documents should therefore also be put under seal.<sup>6</sup> Finally, the Chamber notes missing BCS versions of Witness Milica Karanović's statements (65 *ter* number 6820a and P2510) and a missing English translation of Witness Jovan Popović's statement under 65 *ter* number 6822a.

### Disposition

6. For the foregoing reasons and in line with the Chamber's decisions referred to in footnote 1, the Chamber

**ADMITS** into evidence:

- (a) The redacted Rule 92 *quater* package for Witness Petar Čolović (65 *ter* # 5207a);
- (b) The redacted Rule 92 *quater* package for Witness Jovan Grubor (65 *ter* # 5209a);

---

<sup>3</sup> See P632 (Rule 92 *quater* package for Witness Vesela Damjanić), P634 (Rule 92 *quater* package for Witness Petar Knežević), P635 (Rule 92 *quater* package for Witness Milan Letunica), P637 (Rule 92 *quater* package for Witness Manda Rodić), P2506 (Rule 92 *quater* package for Witness Bogdan Brkić), P2511 (Rule 92 *quater* package for Witness Radoslav Ognjenović), P2513 (Rule 92 *quater* package for Witness Petro Romashev), P2514 (Associated exhibit of Witness Petro Romashev's statement), and P2515 (Associated exhibit of Witness Petro Romashev's statement).

<sup>4</sup> P631, P633, P636.

<sup>5</sup> T. 16694.

<sup>6</sup> See exhibits P2516, P2517, and P2518.

- (c) The redacted Rule 92 *quater* package for Witness Ilija Mirković (65 ter # 5212a);
- (d) The redacted Rule 92 *bis* package for Witness Stevan Zarić (65 ter # 6108a);
- (e) The redacted Rule 92 *bis* package for Witness Dušan Dragičević (65 ter # 6109a);
- (f) The redacted Rule 92 *bis* package for Witness Junjga Dragutin (65 ter # 6110a);
- (g) The redacted Rule 92 *quater* package for Witness Nikola Plavša (65 ter # 7234a);
- (h) The redacted Rule 92 *bis* package for Witness Ružica Šarac (65 ter # 7235a);
- (i) The redacted Rule 92 *bis* package for Witness Zdravko Bunčić (65 ter # 6825a);
- (j) The redacted Rule 92 *quater* package for Witness Bogdan Dobrić (65 ter # 6816a);
- (k) The redacted witness statement of Konstantin Drča (65 ter # 6817a);
- (l) The redacted Rule 92 *quater* package for Witness Milica Karanović (65 ter # 6820a);
- (m) The redacted Rule 92 *bis* package for Witness Jovan Popović (65 ter # 6822a);
- (n) The witness statement of Jovan Mirković without attestation (65 ter # 5195a);
- (o) The witness statement of Smiljana Mirković without attestation (65 ter # 5196a);
- (p) The witness statement of Dušan Torbica without attestation (65 ter # 5194a);

**LIFTS** the confidential status of exhibits P2506, P2511, P2513, P2514, and P2515;

**ORDERS** the Registrar to change the status of exhibits P631, P633, P636, P2516, P2517, and P2518 on eCourt from 'public' to 'confidential';

**REQUESTS** the Prosecution to upload BCS versions for Witness Milica Karanović's statements (65 *ter* number 6820a and P2510) within seven days of this order and inform the Chamber and the parties accordingly;

**REQUESTS** the Registrar to also link the English translation of Witness Jovan Popović's statement to 65 *ter* # 6822a;

**REQUESTS** the Registrar to assign exhibit numbers to the admitted documents and inform the Chamber and the parties of the exhibit numbers so assigned within three weeks of this order.

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



---

Judge Alphons Orie  
Presiding Judge

Dated this twentieth of November 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**