

**UNITED
NATIONS**



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-04-75-PT
Date: 25 September 2012
Original: English

IN THE TRIAL CHAMBER

Before: Judge Guy Delvoie, Presiding
Judge Burton Hall
Judge Antoine Kesia-Mbe Mindua

Registrar: Mr. John Hocking

Decision: 25 September 2012

PROSECUTOR

v.

GORAN HADŽIĆ

PUBLIC

**DECISION ON TIMING OF RULE 92 *ter* MOTIONS FOR
THREE DELAYED DISCLOSURE WITNESSES**

The Office of the Prosecutor:

Mr. Douglas Stringer

Counsel for Goran Hadžić:

Mr. Zoran Živanović

Mr. Christopher Gosnell

1. **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”) is seised of a Prosecution request regarding the timing of Rule 92 *ter* motions for three witnesses with the protective measure of delayed disclosure until thirty days prior to their testimony (“three witnesses”).¹

2. The Prosecution proposes that the Trial Chamber set the deadline for the filing the Rule 92 *ter* motions of three witnesses as 30 days before the testimony of each witness. Alternatively, the Prosecution proposes that it file the motions six weeks in advance of their anticipated testimony on an *ex parte* basis. The Defence disagrees and suggests that the Rule 92 *ter* motions for the three witnesses be filed on an *inter partes* basis six weeks before their anticipated testimony.

3. The Trial Chamber recalls paragraph 42(a)(lii) of the “Decision on Prosecution Motion for Protective Measures for Witnesses”, filed confidentially on 24 August 2012, which states: “The Prosecution shall disclose the full and unredacted statements, prior transcripts, and related exhibits no later than 30 days prior to the expected date of testimony of the [three] witnesses”. The Trial Chamber also recalls its guideline that Rule 92 *ter* motions should be submitted at least six weeks prior to the witness taking the stand.² In the present circumstances, the Trial Chamber is of the view that, for these three delayed disclosure witnesses, the deadline for the filing of the Rule 92 *ter* motions should be the same as the deadline for disclosure of these witnesses' identities and materials to the Defence, which is 30 days before the witnesses testify. In so deciding, the Chamber considers that this will leave adequate time for Defence preparation, as well as complying with the security concerns of the witnesses.

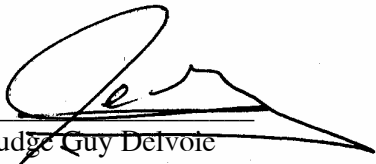
¹ In order to expedite this matter, the Trial Chamber requested the parties to state their positions via email. Email from Prosecution to Trial Chamber, 19 September 2012; Email from Defence to Trial Chamber, 21 September 2012; Email from Prosecution to Trial Chamber, 21 September 2012.

² Rule 65 *ter* Conference, 14 December 2011, T. 18-19 (confidential); Rule 65 *ter* Conference, 15 February 2012, T. 44-45 (confidential).

4. Accordingly, the Trial Chamber hereby **ORDERS** that the deadline for the filing of the Rule 92 *ter* motions for the three witnesses shall be 30 days before the witnesses testify.

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

Done this twenty-fifth day of September 2012,
At The Hague,
The Netherlands.



Judge Guy Delvoie
Présiding

[Seal of the Tribunal]