

**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-T
Date: 17 November 2014
Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. John Hocking

Decision: 17 November 2014

PROSECUTOR

v.

GORAN HADŽIĆ

PUBLIC

**DECISION ON MATTERS RELATING TO CERTAIN DOCUMENTS AND
TRANSCRIPTS**

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, pursuant to Rules 54, 78, and 89 of the Tribunal's Rules of Procedure and Evidence ("Rules"), hereby renders a decision on the following:

2. On 14 July 2014, after being asked a question on direct examination, Goran Hadžić stated that he could explain further in open session, but did not want to put his family at any risk and "[would] not know whether [he could] say it in open session".¹ Hadžić's response to Defence counsel's question was thereafter given in private session.² The Prosecution later requested the lifting of the confidentiality of this portion of Hadžić's testimony at T. 9774 (line 2) through T. 9774 (line 17).³ On 15 July 2014, the Defence informed the Trial Chamber that it would need to look into the matter further before it stated its position on the Prosecution's request.⁴ On 16 July 2014, the Defence stated, without providing reasons for its position, that the transcript lines in question should remain confidential.⁵ By virtue of Rule 78 of the Rules, all proceedings before the Tribunal shall be public unless there are exceptional reasons for keeping them confidential.⁶ The Trial Chamber does not consider a general statement of risk to one's family, without more detailed submissions, an exceptional basis warranting the confidentiality of this segment of Hadžić's testimony. The Trial Chamber finds that the Defence has not provided the requisite exceptional reasons and hereby orders that the testimony at T. 9774 (line 2) through T. 9774 (line 17) and the corresponding audio-visual be made public.

3. On 31 July 2014, the Prosecution filed a motion seeking leave: (i) to replace the English translations currently in eCourt with revised translations for the following exhibits: P00037, P00183, P00194.140, P00195.140, P00372, P00388, P01522, P01715, P01718, P01742, P01834, P01956, P02164, P02954.2913, L00021, L00055, and L00057;⁷ (ii) to substitute the English and BCS transcripts of P00212.140, a video, with revised transcripts that cover only the relevant portion of the video;⁸ (iii) to place the pages of the BCS original and the English translation of P00998 in the correct order by uploading a revised version of the document and its English translation into

¹ Hearing of 14 July 2014, T. 9773 (confidential).

² Hearing of 14 July 2014, T. 9773-9774 (confidential).

³ Email from the Prosecution to Trial Chamber and the Defence, 14 July 2014. The corresponding transcript references for the French transcripts can be found at T. 9774 (line 10) through T. 9774 (line 28). Email from the Prosecution to the Trial Chamber and the Defence, 16 July 2014.

⁴ Hearing of 15 July 2014, T. 9853-9854. *See also* Email from the Defence to Trial Chamber and the Prosecution, 15 July 2014.

⁵ Hearing of 16 July 2014, T. 9855-9856.

⁶ *See Prosecutor v. Milan Lukić and Sredoje Lukić*, IT-98-32/1-AR65.1, Decision of Defence Appeal Against Trial Chamber's Decision on Sredoje Lukić's Motion for Provisional Release, 16 April 2007, fn. 2.

⁷ Prosecution Motion to Substitute or Augment Translations of Several Exhibits, 31 July 2014 ("Motion to Substitute or Augment Translations"), paras 1-18, 22.

⁸ Motion to Substitute or Augment Translations, para. 19.

eCourt;⁹ and (iv) to substitute the BCS version of P00196.140 with a more legible version of the original document¹⁰ (collectively, “Requests”). No response was filed by the Defence. The Trial Chamber hereby grants the Requests.¹¹

4. On 14 August 2014, the Prosecution filed a motion seeking modification of a redaction order relating to a hearing held on 9 July 2014.¹² The Prosecution requests that the Trial Chamber lift the confidentiality of the testimony at T. 9604 (lines 24-25) and T. 9605 (lines 1-20) as it is unrelated to the confidential exhibit D00127.¹³ No response was filed by the Defence. The Trial Chamber hereby grants the Motion and orders that the testimony at T. 9604 (lines 24-25) and T. 9605 (lines 1-20)¹⁴ and the corresponding audio-visual be made public.

5. On 15 August 2014, the Prosecution filed a motion requesting that D00149, D00150, D00154, D00155, D00156, D00158, D00160, D00161, D00162, D00163, D00164, D00165, D00166, D00167, D00168, D00169, D00170, D00171, and D00172 (collectively, “Exhibits”) be marked for identification (MFI) until the Defence obtains full translations of the Exhibits.¹⁵ The Prosecution further requested that it be permitted to reserve additional time for cross-examination of Goran Hadžić on any additional information contained in the revised translations.¹⁶ On 29 August 2014, the Defence filed a motion requesting leave to replace the partial translations of the Exhibits with complete translations.¹⁷ On 10 September 2014, the Prosecution responded that it did not object to the new translations being uploaded to eCourt.¹⁸ The Trial Chamber hereby grants the Defence’s request to replace the English translations of the Exhibits with the new translations¹⁹ and

⁹ Motion to Substitute or Augment Translations, para. 20.

¹⁰ Motion to Substitute or Augment Translations, para. 21.

¹¹ The corresponding revised translations can be found under the following Doc IDs: 0466-4539-ET1 (P00037), 0201-1727-ET-REV (P00183), Y034-6031-ET (P00194.140), 0088-7070-ET REV (P00195.140), 0683-9204-ET1 (P00372), ET 0100-2893 REV (P00388), ET 0100-2920 REV (P01522), 0683-8723-ET1 (P01715), 0683-8973-ET1 (P01718), 0216-9504 ET (P01742), 0280-4739-ET1 (P01834), V000-1282 ET (P01956), 0683-9313-ET1 (P02164), 0036-4339 EDT (P02954.2913), 0089-0434 ET REV (L00021), 0216-6105 ET REV (L00055), 0280-9329 ET REV (L00057), BCS V000-1449 0729-0832 REV and ET V000-1449 0729-0832 REV (P00212.140), 0414-4430-1 and 0414-4430-ET-1 (P00998), and 0088-7070-1 (P00196.140).

¹² Prosecution’s Motion for Modification to Redaction Order Issued on 25 July 2014 (confidential), 14 August 2014 (“Motion”). *See also* Order to Redact the Public Transcript and the Public Broadcast of a Hearing, 21 July 2014.

¹³ Motion, paras 1-4.

¹⁴ The corresponding transcript references for the French transcripts can be found at T. 9604 (lines 14-28) and T. 9605 (lines 1-10). Email from the Prosecution to the Trial Chamber and the Defence, 21 October 2014.

¹⁵ Prosecution Motion Seeking Marked for Identification Status for Partially Translated Defence Exhibits Admitted on 17 July 2014, 15 August 2014 (“Motion Seeking MFI Status for Partially Translated Defence Exhibits”), paras 2-3.

¹⁶ Motion Seeking MFI Status for Partially Translated Defence Exhibits, paras 4-5.

¹⁷ Defence Motion to Replace Partial with Complete Translations of Defence Exhibits Admitted on 17 July 2014, 29 August 2014, para. 1.

¹⁸ Prosecution Response to Defence Motion to Replace Partial with Complete Translations of Defence Exhibits Admitted on 17 July 2014, 10 September 2014.

¹⁹ The corresponding complete translations can be found under the following Doc IDs: 1D11-3455 (D00149), 1D11-3457 (D00150), 1D11-3459 (D00154), 1D11-3462 (D00155), 1D11-3464 (D00156), 1D11-3466 (D00158), 1D11-3469 (D00160), 1D11-3471 (D00161), 1D11-3474 (D00162), 1D11-3476 (D00163), 1D11-3480 (D00164), 1D11-3493 (D00165), 1D11-3496 (D00166), 1D11-3499 (D00167), 1D11-3501 (D00168), 1D11-3483 (D00169), 1D11-3486 (D00170), 1D11-3489 (D00171), and 1D11-3491 (D00172).

accordingly considers the Prosecution's request to MFI the Exhibits to be moot. The Trial Chamber notes that the new translations were available to the Prosecution before the completion of Goran Hadžić's testimony, and the Prosecution requested and was granted additional time for cross-examination.²⁰ The Trial Chamber therefore considers the Prosecution request to reserve additional time for cross-examination also to be moot.

6. On 5 September 2014, the Defence filed a motion requesting the replacement of the translation of D00030 with a corrected version provided by CLSS.²¹ On 19 September 2014, the Prosecution responded that it did not object to the Defence's request.²² The Trial Chamber hereby grants the Defence leave to replace the translation of D00030 currently in eCourt with the corrected version provided by CLSS.²³

7. On 19 September 2014, the Defence filed a motion requesting the admission of Rule 65 *ter* numbers 1D03759 and 1D03760 pursuant to Rule 89(C) of the Rules as the documents are relevant to challenges made by the Prosecution to DGH-083's credibility.²⁴ On 3 October 2014, the Prosecution filed a response stating that it does not oppose the Defence request to admit Rule 65 *ter* numbers 1D03759 and 1D03760.²⁵ The Prosecution further noted that it will also seek to admit documents relating to DGH-083's testimony in the near future.²⁶ The Trial Chamber hereby grants the Defence request and admits Rule 65 *ter* numbers 1D03759 and 1D03760 into evidence.

8. On 20 October 2014, the Defence filed a motion seeking leave to replace the English translations of D00232, D00233, and D00234 with revised translations.²⁷ On 31 October 2014, the Prosecution responded that it did not object to the replacement of translations for D00232 and D00233.²⁸ However, regarding the revised English translation of D00234, the Prosecution noted three discrepancies and requested that the Defence be ordered to provide a second revised translation for D00234.²⁹ On 7 November 2014, the Defence replied that it has obtained a second

²⁰ Hearing of 1 September 2014, T. 10689.

²¹ Defence Motion to Replace Translation of Defence Exhibit D00030, 5 September 2014, para. 1.

²² Prosecution Response to Defence Motion to Replace Translation of Defence Exhibit D00030, 19 September 2014, para. 1.

²³ The corrected translation is available in eCourt under Doc ID 1D11-3575.

²⁴ Motion to Admit 65 *ter* 1D3759 and 1D3760, 19 September 2014, paras 1-2. *See also* Hearing of 4 September 2014, T. 10980-10987.

²⁵ Prosecution Response to Defence Motion to Admit Rule 65 *ter* Numbers 1D03759 and 1D03760, 3 October 2014, para. 1.

²⁶ Prosecution Response to Defence Motion to Admit Rule 65 *ter* Numbers 1D03759 and 1D03760, 3 October 2014, para. 1.

²⁷ The revised translations are available in eCourt under the following Doc IDs: 1D11-4329-1D11-4331 (D00232); 1D11-4332-1D11-4333 (D00233); 1D11-4338-1D11-4354 (D00234). Motion to Replace Translation of Defence Exhibits D00232, D00233 and D00234, 20 October 2014, para. 1.

²⁸ Prosecution Response to Motion to Replace Translation of Defence Exhibits D00232, D00233, and D00234, 31 October 2014, para. 1.

²⁹ Prosecution Response to Motion to Replace Translation of Defence Exhibits D00232, D00233, and D00234, 31 October 2014, paras 1-2.

revised translation for D00234, which includes the corrections proposed by the Prosecution.³⁰ The Trial Chamber hereby grants the Defence's request to replace the English translations of D00232, D00233, and D00234 with their corresponding revised translations³¹ and orders that the Registry lift the marked for identification status of D00234 and admit D00234 into evidence.

9. The Trial Chamber instructs the Registry to take all necessary and appropriate measures to implement this decision.

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

Done this seventeenth day of November 2014,
At The Hague,
The Netherlands.



Judge Guy Delvoie
Presiding

[Seal of the Tribunal]

³⁰ The second revised translation is available in eCourt under Doc ID 1D11-4687-1D11-4703.

³¹ 1D11-4329-1D11-4331 (D00232); 1D11-4332-1D11-4333 (D00233); and 1D11-4687-1D11-4703 (D00234).