



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: 9 April 2015

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

Decision of: 9 April 2015

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**PUBLIC REDACTED VERSION OF “DECISION ON PROSECUTION’S MOTION FOR
RECONSIDERATION OF REDACTIONS TO TESTIMONY OF [REDACTED]” ISSUED
ON 27 SEPTEMBER 2013**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

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”),

BEING SEISED of the “Prosecution’s Motion for Reconsideration of Redactions of Testimony of [REDACTED]”, filed confidentially on 13 September 2013 (“Motion”), in which the Office of the Prosecutor (“Prosecution”) requests the Chamber to reconsider its decision to redact portions of [REDACTED] testimony;¹

NOTING that the Prosecution submits that the Decision “appears to be based on a clear error of reasoning because the redacted testimony contains no information relating to any legitimate privacy or security concern” of [REDACTED] and that reconsideration of the Decision would avoid denying the public access to testimony which bears directly on [REDACTED] credibility;²

NOTING that, in the Prosecution’s submission, [REDACTED] never expressed any concerns that the public disclosure of this information would “negatively impact on his privacy and security” and non-protected Prosecution witnesses have been cross-examined about immigration-related issues in public session;³

NOTING the “Accused’s Response to Prosecution’s Motion for Reconsideration of Redactions to Testimony of [REDACTED]”, filed confidentially on 24 September 2013 (“Response”), wherein the Accused submits that he is unable to determine if the test for reconsideration is met because the reasons for the Chamber’s redaction are unknown to him but since [REDACTED] was not assigned counsel during testimony, an heightened protection of his rights by the Chamber could be warranted;⁴

RECALLING that there is no provision in the Rules for requests for reconsideration, and that the Chamber has inherent discretionary power to reconsider a previous interlocutory decision in exceptional cases if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent injustice;⁵

¹ Motion, para. 1, referring to Order to Redact Public Transcript and Public Broadcast of a Hearing, [REDACTED] (“Decision”).

² Motion, paras. 1, 3–4.

³ Motion, paras. 3, 5.

⁴ Response, paras. 2–3.

⁵ Decision on Three Accused’s Motions for Reconsideration of Decisions on Judicial Notice of Adjudicated Facts, 4 May 2012, para. 5 and decisions cited therein.

CONSIDERING that the Chamber has the discretion to order in accordance with Rule 79 of the Tribunal's Rules of Procedure and Evidence ("Rules") the redaction of portions of testimony which confidential status it deems appropriate to maintain to protect a witness's privacy or security, or to safeguard the interests of justice;

CONSIDERING that the redacted portions of [REDACTED] testimony pertain to partly false answers which he gave to [REDACTED] immigration authorities which could potentially expose him to sanctions or deportation proceedings in [REDACTED], a possibility he was not reminded of at the time of testimony;

CONSIDERING that the redacted portions of [REDACTED] testimony are very limited, and there remain testimony and documentation on the public record which pertain to [REDACTED];

CONSIDERING further that the Chamber will consider the redacted portions of [REDACTED] testimony along with the rest of his testimony for the purposes of assessing his credibility;

CONSIDERING therefore that there was no clear error of reasoning in deciding that it was in the interests of justice for this limited information which could negatively impact on the witness to be made confidential, nor is there an exceptional circumstance which would justify reconsideration in order to prevent an injustice;

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 54 of the Rules of Procedure and Evidence, **DENIES** the Motion.

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



Judge O-Gon Kwon
Presiding

Dated this ninth day of April 2015
At The Hague
The Netherlands

[Seal of the Tribunal]