

IT-09-92-PT
029331-029329
27 September 2011

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**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-09-92-PT
Date: 27 September 2011
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Bakone Justice Moloto
Judge Christoph Flügge

Registrar: Mr John Hocking

Decision of: 27 September 2011

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**AMENDMENT OF DECISION ON PROSECUTION MOTION
FOR PROTECTIVE MEASURES FOR VICTIMS AND
WITNESSES AND DOCUMENTARY EVIDENCE**

Office of the Prosecutor

Mr Dermot Groome
Mr Peter McCloskey

Counsel for Ratko Mladić

Mr Branko Lukić

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 (“Chamber” and “Tribunal”);

RECALLING its Decision on Prosecution Motion for Protective Measures for Victims and Witnesses and Documentary Evidence filed publicly on 24 June 2011 (“Decision”), whereby the Chamber ordered the Defence, *inter alia*, to return to the Registry all confidential, disclosed material and copies thereof which have not become part of the public record at the conclusion of the proceedings of this case;¹

BEING SEISED of a request filed by the Registry on 24 August 2011 (“Request”) to amend the Decision to order the Defence to retain all such materials for a period of five years from the end of the case while observing its duty of confidentiality;²

NOTING that neither party exercised its right to respond to the Request;

CONSIDERING that the objective of the Prosecution and the Chamber was to ensure appropriate restrictions on public disclosure of material and information provided by the Prosecution to the Defence to allow the Prosecution to request specific protective measures at a later point and avoid compromising the security of victims and witnesses in the interim;³

NOTING Rule 44(C) of the Rules of Procedure and Evidence (“Rules”), which stipulates that counsel shall be subject to, *inter alia*, the Directive on the Assignment of Defence Counsel (“Directive”);⁴

NOTING Article 16(I) of the Directive, which requires Defence Counsel to retain “a complete and accurate case file of all documentation related to the case and of all work performed by the defence team during the representation of the suspect or accused [...] for five years after the completion of proceedings relating to the suspect or accused before the Tribunal”;

CONSIDERING that granting the Request would result in no additional public disclosure and would offend neither the concern of the Prosecution nor the objective of the Chamber;

ACKNOWLEDGING the desirability of consistent practice and procedure in accordance with the Rules and instruments subordinate thereto;

¹ Decision, para. 15(d).

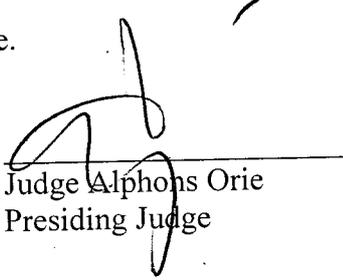
² Registry Submission Pursuant to Rule 33(B) Regarding “Decision on Prosecution Motion for Protective Measures for Victims and Witnesses and Documentary Evidence” dated 24 June 2011, 24 August 2011, paras 3-5.

FOR THE FOREGOING REASONS

HEREBY AMENDS the Decision, insofar as it provides at paragraph 15(d) for the return of confidential, disclosed materials and copies thereof which have not become part of the public record at the conclusion of the proceedings of this case;

INSTEAD ORDERS the Defence to return to the Registry all confidential, disclosed material and copies thereof which have not become part of the public record at the expiry of a period of five years after the completion of proceedings relating to the Accused before the Tribunal.

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



Judge Alphons Orie
Presiding Judge

Dated this 27th day of September 2011
At The Hague
The Netherlands

[Seal of the Tribunal]

³ Decision, para. 11; Prosecution's Motion for Protective Measures for Victims and Witnesses and Documentary Evidence, 3 June 2011, para. 2.

⁴ Directive No. 1/94, IT/73/Rev. 11, promulgated by Decision of the Registrar dated 11 July 2006.