



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-01-47-PT
Date: 20 November 2001
Original: English

IN TRIAL CHAMBER II

Before: Judge David Hunt, Presiding
Judge Florence Ndepele Mwachande Mumba
Judge Patricia Wald

Registrar: Mr Hans Holthuis

Order of: 20 November 2001

PROSECUTOR

v

**ENVER HADŽIHASANOVIĆ
MEHMED ALAGIĆ
AMIR KUBURA**

**ORDER ON DARIO KORDIĆ'S MOTION FOR ACCESS TO CONFIDENTIAL
MATERIAL**

The Office of the Prosecutor:

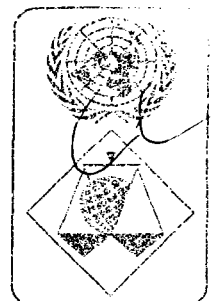
Mr Ekkehard Withopf
Ms Cynthia Fairweather

Counsel for the Applicant:

Mr Božidar Kovačić and Mr Goran Mikuličić for Mario Čerkez

Counsel for the Accused:

Ms Edina Rešidović for Enver Hadžihasanović
Mr Vasvija Vidović for Mehmed Alagić
Mr Fahrudin Ibrišimović for Amir Kubura



NOTING the “Decision on Motion by Mario Čerkez for Access to Confidential Supporting Material” (“Decision”) issued by the Trial Chamber on 10 October 2001 granting the motion of Mario Čerkez (“Čerkez”) for access to confidential supporting material filed with the indictment in the present case;¹

NOTING the “Order on Protective Measures to be Observed by Mario Čerkez” issued by the Trial Chamber on 7 November 2001 ordering Čerkez to observe particular protective measures with respect to the confidential supporting material disclosed pursuant to the Decision;

NOTING the “Appellant Dario Kordić’s Motion for Access to Confidential Supporting Material in *Hadžihasanović et al Case*” (“Motion”) filed by Dario Kordić (“Kordić”) on 8 November 2001 in which Kordić seeks access to the confidential supporting materials disclosed to Čerkez and in which he undertakes to observe the same protective measures ordered to be observed by Čerkez;

CONSIDERING the “Prosecution Response to “Appellant Dario Kordić’s Motion for Access to Confidential Supporting Material in *Hadžihasanović et al Case*” (“Response”) by which the Prosecution does not oppose Kordić being granted access to the confidential supporting material in the *Hadžihasanović et al* case, subject to the same protective measures being imposed as have been imposed upon Čerkez;

NOTING that in the Response the Prosecution also requests the Trial Chamber order the same protective measures in relation to 30 documents previously disclosed to Kordić from the confidential supporting material in the *Hadžihasanović et al* case under Rule 68;

CONSIDERING that the disclosure by the Prosecution of these documents to Kordić without protective measures being sought was done inadvertently;

Pursuant to Rules 54 and 75 of the Rules;

¹ Decision, par 16(a). The background to that motion and the reasons for having granted it are set out in the Decision and requires no repetition (Decision, pars 1-15).

HEREBY ORDERS that:

1. The Registry is to grant access to Kordić to the confidential supporting material in the present case not already disclosed to him, subject to the following protective measures:

The Applicant, his counsel and his representatives who are acting pursuant to his instructions shall:

- (a) Not disclose to the public, to the media or to family members and associates of the Applicant the names of witnesses, their whereabouts, copies of witness statements, the contents of their witness statements or any information which would permit or enable them to be identified and would breach the confidentiality of the court proceedings unless absolutely necessary for the preparation of his appeal, and always with leave of the Trial Chamber.
- (b) Not disclose to the public, to the media or to family members and associates any documentary or other evidence, or any written statement of a witness or the contents, in whole or in part, of any non-public evidence, statement or prior testimony.
- (c) Not contact any witness without first demonstrating to this Trial Chamber the justification for contacting the witness, that the witness may materially assist him in some identified way and that such assistance is not otherwise reasonably available to him, and further, that if such contact is granted by this Trial Chamber, that the Prosecution be given a right to be present at any contact or interview, if the witness requests such presence.
- (d) Inform any person to whom disclosure of the confidential supporting material in this case is made for the purposes of preparing the appeal that he or she is forbidden to copy, reproduce or publicise, in whole or in part, any non-public information or to disclose them to any other person, and further that, if any such person has been provided with such information, he or she must return to the Applicant and his counsel as soon as it is no longer needed for preparing and presenting his appeal.

2. The 30 documents previously disclosed by the Prosecution to Kordić from the confidential supporting material under Rule 68 are also disclosed subject to these protective measures.

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

David Hunt

David Hunt
Presiding Judge

Done this 20th day of November 2001
At The Hague
The Netherlands

[Seal of the Tribunal]

