



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-02-54-T
Date: 29 May 2002
Original: English

IN THE TRIAL CHAMBER

Before: Judge Richard May, Presiding
Judge Patrick Robinson
Judge O-Gon Kwon

Registrar: Mr. Hans Holthuis

Decision of: 29 May 2002

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**DECISION ON PROSECUTION MOTION TO UTILIZE REDACTED STATEMENT AND
ORDER OF NON-DISCLOSURE**

The Office of the Prosecutor

Ms. Carla Del Ponte
Mr. Geoffrey Nice
Mr. Dirk Ryneveld

The Accused

Slobodan Milošević

Amicus Curiae

Mr. Steven Kay
Mr. Branislav Tapušković
Mr. Michail Wladimiroff

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 (“International Tribunal”),

BEING SEISED of the confidential *ex parte* “Prosecution’s Motion to Utilize Redacted Version of 11 March 1999 Statement of Fred Abrahams and for Order of Non-Disclosure” filed by the Prosecution on 24 May 2002 (“the Motion”), in which the Prosecution seeks permission to use a redacted version of the statement of the witness “in order to protect the safety and security of the sources of information provided to” the witness, together with an order for non-disclosure of the unredacted version of the statement,

NOTING that the witness has provided two statements to the Prosecution, the first dated 11 March 1999 (“the March 1999 statement”) and the second dated 24 January 2002 (“the January 2002 statement”),

NOTING that the March 1999 statement, which formed part of the supporting material that accompanied the indictment on confirmation, was disclosed to the accused in redacted form in July 2001, but that it is not clear from the Motion whether the January 2002 statement has yet been disclosed to the accused,

NOTING the Order of the Trial Chamber of 11 January 2002 which provides that any witness whose statement has not been disclosed to the accused prior to the commencement of trial may only be called with leave of the Trial Chamber and that no witness may be called until at least 30 days after disclosure of the statement of the witness,

NOTING the confidential Order of the Trial Chamber of 30 January 2002, addressing the potential testimony of this witness,

NOTING the assertion of the Prosecution that such relief is justified pursuant to Article 20, paragraph 1, Article 21, paragraph 2, and Article 22 of the Statute of the International Tribunal (“Statute”) and Rules 69, 70 and 75 of the Rules of Procedure and Evidence of the International Tribunal (“Rules”) and, in particular, Rule 70 (B) of the Rules,

CONSIDERING that Rule 70 provides for an exception to the general rule mandating disclosure to the defence,

CONSIDERING that such relief is strictly limited to situations within the scope of Rule 70 (B), that is, where information has been provided to the Prosecution on a confidential basis and has been used solely for the purpose of generating new evidence,

CONSIDERING that there is nothing in the Motion indicating that the information provided has been used solely for the purpose of generating new evidence and that the evidence the witness is expected to give is, in effect, a summary or overview of the evidence itself,

CONSIDERING that the Prosecution has neither satisfied the Trial Chamber that exceptional circumstances exist to order non-disclosure under Rule 69 of the Rules, nor that the measures requested as appropriate pursuant to Rule 75,


CONSIDERING that the Prosecution has advanced no other basis for redaction and non-disclosure of this information,

FOR THE FOREGOING REASONS

PURSUANT TO Rule 70 of the Rules of Procedure and Evidence of the International Tribunal,

HEREBY DENIES the Motion.

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


Richard May
Presiding

Dated this twenty-ninth day of May 2002
At The Hague
The Netherlands

[Seal of the Tribunal]