



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: 31 January 2003

Original: ENGLISH

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**IN THE TRIAL CHAMBER**

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

**Registrar:** Mr. Hans Holthuis

**Decision of:** 31 January 2003

**PROSECUTOR**

**v.**

**SLOBODAN MILOŠEVIĆ**

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**DECISION ON MOTION BY THE DEFENCE FOR MOMČILO KRAJIŠNIK  
FOR ACCESS TO CONFIDENTIAL MATERIAL**

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**Office of the Prosecutor:**

Mr. Geoffrey Nice  
Ms. Hildegaard Uertz-Retzlaff  
Mr. Dermot Groome  
Mr. Mark Harmon  
Mr. Alan Tieger

**Amici Curiae:**

Mr. Steven Kay  
Mr. Branislav Tapušković  
Mr. Timothy McCormack

**The Accused:**

Slobodan Milošević

**Counsel for Momčilo Krajišnik:**

Mr. Deyan Brashich

**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 a “Motion by the Krajišnik Defense in *Prosecutor v. Momčilo Krajišnik and Biljana Plavšić, IT-39&40-PT* for access to closed session testimony, witness statements and transcripts and for documents and things filed under seal”, filed by counsel for Momčilo Krajišnik (“Defence”) on 22 November 2002 (“the Motion”), and the response filed by the Office of the Prosecutor (“Prosecution”) on 6 December 2002,

**NOTING** that the Defence seeks access to the following types of confidential material in the case of *Prosecutor v. Slobodan Milošević* (“the Milošević proceedings”), insofar as they relate to events in Bosnia and Herzegovina for the period from 1 July to 30 December 1992: (1) closed session testimony of witnesses in relation to the Bosnia phase of the Milošević proceedings; (2) production of the statements of these witnesses, including transcripts of any interviews with such witnesses, pursuant to Rule 68 of the Rules of Procedure and Evidence of the International Tribunal (“Rules”); and (3) sealed documents and exhibits produced during their testimony,

**NOTING** that the Prosecution asserts that it has no objection to the Defence being granted access to such closed session testimony and confidential exhibits after redaction by the Registry of those parts which (a) might reveal the identity of any protected person; (b) relate to the period after 30 December 1992; or (c) relate to Croatia or Kosovo, subject to the Defence being ordered not to disclose to the public any confidential material so provided,

**NOTING** that the Prosecution objects to the production of the statements of any such witnesses on the basis that the Defence is not entitled to such documents under Rule 66 of the Rules, and that it is actively engaged in the ongoing process of reviewing these statements and disclosing to the Defence any material which falls within Rule 68,

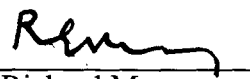
**CONSIDERING** that there is no objection to the provision of the closed session testimony and related exhibits, subject to redaction and an order restricting public disclosure,

**PURSUANT** to Rule 75 of the Rules,

**GRANTS** the Motion in part and **ORDERS** as follows:

- (1) the Registry of the International Tribunal shall, as soon as practicable and on an ongoing basis, provide the Defence with copies of all closed session testimony in the Milošević proceedings, duly redacted after consultation with the Prosecution to remove all material which may identify a protected person, or which relates to the period after 30 December 1992 or which relates to Croatia or Kosovo;
- (2) the Defence shall not disclose to the public or to the media the nature of content of any closed session material so disclosed, except for reasons related to the preparation of the Krajišnik defence; and
- (3) the Prosecution shall continue to review the witness statements and transcripts of interviews, and shall disclose to the Defence within one month of the date of this Decision any material which falls within the terms of Rule 68 of the Rules.

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

  
Richard May  
Presiding

Dated this thirty-first day of January 2003  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**