

UNITED
NATIONS



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-95-14 & 14/2-R77

Date: 12 September 2005

Original: English

IT-95-14 & 14/2-R77
D 535 - D 532
12 September 2005

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BEFORE THE CONFIRMING JUDGE

Confirming Judge: Judge Alphons Orie

Registrar: Mr. Hans Holthuis

Decision of: 12 September 2005

PROSECUTOR

v.

JOSIP JOVIĆ

**DECISION ON REVIEW OF INDICTMENT AND ORDER FOR
NON-DISCLOSURE**

Office of the Prosecutor:

Carla Del Ponte
David Akerson

I, Judge Alphons Orie, Judge 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 SEIZED of the Office of the Prosecutor’s (“the Prosecution’s”) indictment and supporting material and “Motion for Confirmation of the Indictment” filed on 29 August 2005 against the accused, Josip Jović (“the Accused”);

NOTING that I was designated by the President after the Bureau had determined that the Indictment satisfies the standard established by Rule 28 of the Rules of Procedure and Evidence (“the Rules”);

HAVING HEARD the Prosecutor pursuant to Rules 47 and 53 of the Rules on 2 September 2005;

NOTING that the Prosecution filed a revised “Motion for Confirmation of the Indictment” on 8 September 2005, addressing the concerns which I expressed on 2 September 2005;

CONSIDERING that Article 19 of the Statute of the International Tribunal (the “Statute”) requires a Judge to whom an indictment has been transmitted to review and confirm it “if satisfied that a *prima facie* case has been established by the Prosecutor”;

CONSIDERING that Rule 47 requires a Judge, when reviewing an indictment for the purposes of deciding whether to confirm it or not, to examine each of the counts in the indictment and any supporting material which the Prosecutor has provided and to determine whether, as required by Article 19(1), the Prosecutor has established a *prima facie* case in the indictment;

NOTING that, in the Indictment, the Accused, in his capacity as Editor-in-Chief of *Slobodna Dalmacija*, a daily newspaper in Split, Croatia, is alleged to have committed, or otherwise aided and abetted, in the commission of contempt, under Rule 77(A), Rule 77(A) (ii) and Rule 77(A) (iv) of the Tribunal’s Rules of Procedure and Evidence, during the period 27 November 2000 – 29 December 2000.

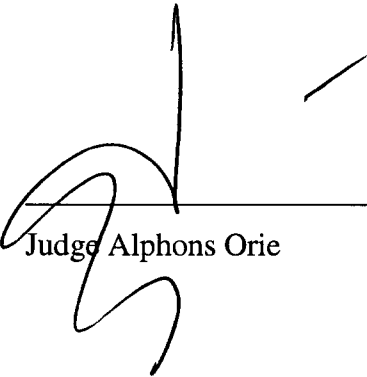
CONSIDERING, on the basis of the material submitted by the Prosecutor, that a *prima facie* case against the Accused in respect of the crimes with which he is charged in the Indictment, has been established;

CONSIDERING that a decision filed on 9 September 2005, confirming the Indictment against the Accused, contained an error, in that it mentioned the name of another accused, which requires the issuing of this decision in order to correct that error;

AND ORDER that:

- (a) the Indictment is confirmed, under Rule 47;
- (b) the Prosecution is authorised to prosecute this matter, under Rule 77(D)(i);
- (c) under Rule 53 the confidentiality of the Indictment be lifted, but that no part of the supporting material shall be disclosed to the Accused, or to the public, until further order. For the purpose of this order the term “public”, shall mean all persons, organisations, entities, clients, associations and groups, including the media, other than the judges of the Tribunal and the staff of the Registry (assigned to either Chambers or the Registry), the Prosecution and the Accused. The “public” specifically includes without limitation, family, friends, and associates of the Accused and defence counsel in other proceedings before the Tribunal;
- (d) the accused is summoned to appear in accordance with the separate order issued on 9 September 2005 and that a copy of such order and the Indictment be transmitted to the Registry for service on the Ministry of Justice of the Republic of Croatia, for service on the accused. The Registrar is, therefore, requested to take all necessary steps in order to serve the Indictment and this decision on the Accused; and that
- (e) the Decision on the Review of the Indictment and Order for Non-Disclosure, filed on 9 September 2005, is null and void.

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



Judge Alphons Orie

Dated this Twelfth day of September 2005

At The Hague

The Netherlands