



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-04-79-PT  
Date: 12 September 2007  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Kevin Parker, Presiding  
Judge Christine Van Den Wyngaert  
Judge Krister Thelin

**Registrar:** Mr. Hans Holthuis

**Decision:** 12 September 2007

**PROSECUTOR**

v.

**MIĆO STANIŠIĆ**

***PUBLIC***

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**DECISION ON ACCESS TO CONFIDENTIAL MATERIAL IN  
THE DERONJIĆ CASE**

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**The Office of the Prosecutor:**

Mr. Alan Tieger  
Ms. Anna Richterova

**Counsel for the Accused:**

Mr. Stevo Bezbradica

**TRIAL CHAMBER II** 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 (“Trial Chamber”),

**NOTING** the “Motion by Mićo Stanišić for Access to all Confidential Materials in the Mirolsav Deronjić Case” filed on 13 March 2007 (“Motion”) pursuant to Rule 75(G)(ii) of the Rules of Procedure and Evidence (“Rules”), in which the Defence of the accused Mićo Stanišić (“Applicant”) requests access to confidential material in the case of *Prosecutor v. Miroslav Deronjić* (“Deronjić case”), namely to all confidential transcripts, filings and exhibits relating the *Deronjić* sentencing proceedings,

**NOTING** Rule 75(F)(i) of the Rules which provides that once protective measures have been ordered in respect of a victim or witness in any proceedings before the Tribunal (the “first proceedings”), such protective measures shall continue to effect *mutatis mutandis* in any other proceedings before the Tribunal (the “second proceedings”) unless and until they are rescinded, varied or augmented,

**NOTING** Rule 75(G)(ii) of the Rules which states that a party to the second proceedings seeking to rescind, vary or augment protective measures ordered in the first proceedings must apply, if no Chamber remains seised of the first proceedings, to the Chamber seised of the second proceedings,

**NOTING** that the proceedings in the case against Miroslav Deronjić are concluded, and that the Chamber which ordered the protective measures in relation to the material sought is no longer seised of the proceedings in that case,

**NOTING** therefore that the Trial Chamber is properly seised of the motion,

**NOTING** the arguments of the Applicant in support of the Motion:

1. that the charges in the indictment against Mićo Stanišić are closely related to the charges against Miroslav Deronjić, and notably that the following facts are directly connected to the Defence for Mićo Stanišić:
  - (i) Miroslav Deronjić pleaded guilty and was convicted for his participation in the persecution of the Bosnian Muslim population in the municipality of Bratunac, in Bosnia and Herzegovina (“BiH”) from the period of end of April 1992 to early 1992;

ii) at the relevant time, Miroslav Deronjić was acting as President of the Crisis Staff of the municipality of Bratunac in BiH, and Mićo Stanišić was Minister of Internal Affairs in the Serbian Republic of BiH;

iii) in his capacity as President of the Bratunac Crisis Staff, Miroslav Deronjić exercised authority over the Territorial Defence (“TO”), and over the Bratunac police forces at the relevant time;

iv) Miroslav Deronjić ordered an attack on the village of Glogova, in the municipality of Bratunac in BiH, and the forcible removal and displacement its Bosnian Muslim population;

(v) the alleged offences in the case against Miroslav Deronjić and the case against Mićo Stanišić took place during the same armed conflict in BiH; and

2. that access to confidential material in the case against Miroslav Deronjić will be of significant assistance for the preparation of the Defence case,

**NOTING**, further, the “Prosecution’s Response to Mićo Stanišić’s Motion for Access to all Confidential Material in the Miroslav Deronjić Case” filed on 27 March 2007 (“Response”), whereby the Prosecution submits that it does not oppose the Motion,

**NOTING** further that, in the Response, the Prosecution requests that, should access be granted, the Chamber order (i) protective measures to maintain the confidentiality of the material in question, and (ii) that access to material acquired pursuant to Rule 70 of the Rules will only be granted where consent of the provider has been obtained,

**CONSIDERING** that a party is always entitled to seek material from any source to assist in the preparation of its case, if the material sought has been identified or described by its general nature and if a legitimate forensic purpose has been shown,<sup>1</sup>

**CONSIDERING** that access to confidential material from another case shall be granted, if the party seeking it can establish that it may be of material assistance to its case, that is, “that it is likely to assist the applicant’s case materially, or that there is at least a good chance that it would”,<sup>2</sup>

<sup>1</sup> *Prosecutor v. Kvočka et al*, Case No.: IT-98-30/1-A, Decision on Momcilo Gruban’s Motion for Access to Material, 13 January 2003, para. 5, citing collected cases; *Prosecutor v. Limaj et al*, Case No.: IT-03-66-A, Decision on Haradinaj Motion for Access, Balaj Motion for Joinder, and Balaj Motion for Access to Confidential Materials in the Limaj Case, 31 October 2006, para. 7.

<sup>2</sup> *Prosecutor v. Blagojević and Jokić*, Case No.: IT-02-60-A, Decision on Momčilo Perišić’s Motion Seeking Access to Confidential Material in the Blagojević and Jokić Case, 18 January 2006, para. 4; *Prosecutor v. Limaj et al*, Case No.:

**CONSIDERING**, further, that material may be considered relevant where a nexus exists between the applicant's case and the case from which such material is sought (e.g. where the charges arise out of events with geographic and temporal identity),<sup>3</sup>

**NOTING** that the *Deronjić* case concerned crimes committed in the village of Glogova, Bratunac Municipality, in BiH, whereas the *Stanišić* case relates to crimes committed in a number of municipalities of BiH not covered in the *Deronjić* case,

**CONSIDERING**, however, that both Mićo Stanišić and Mirolsav Deronjić are charged for having, *inter alia*, (individually and in concert with others in a joint criminal enterprise) ordered the persecution of the Bosnian Muslim population in one or more municipalities in Bosnia and Herzegovina ("BiH"), from the period of end of April 1992 to 9 May 1992,<sup>4</sup>

**CONSIDERING** that both Miroslav Deronjić and Mićo Stanišić are alleged to have participated in a joint criminal enterprise in their respective indictments, the objective of which being the permanent removal of the non-Serb population from parts of BiH,

**CONSIDERING** that Miroslav Deronjić and Mićo Stanišić held positions of authority in BiH during the relevant time of the crimes charged in the case against Miroslav Deronjić and the case against Mićo Stanišić,

**CONSIDERING**, further, that the significant similarities in the facts giving rise to the charges against Mićo Stanišić and Miroslav Deronjić with regard to events in the municipalities of BiH during the period concerned in the respective indictments, also constitute a clear overlap between the two proceedings,

**CONSIDERING**, finally, that the Applicant has identified the material requested and demonstrated that the requested material may be of material assistance to the Applicant in the preparation of its case and that a nexus exists between the Applicant's case and the *Deronjić* case,

**FINDS** that the standard for access to confidential material has been satisfied, and

**PURSUANT TO** Rule 75(F)(i), and Rule 75(G)(ii) of the Rules, **HEREBY GRANTS** the Motion and **ORDERS** as follows:

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IT-03-66-A, Decision on Haradinaj Motion for Access, Balaj Motion for Joinder, and Balaj Motion for Access to Confidential Materials in the Limaj Case, 31 October 2006, para. 7.

<sup>3</sup> *Prosecutor v. Kvočka et al*, Case No.: IT-98-30/1-A, Decision on Momcilo Gruban's Motion for Access to Material, 13 January 2003, para. 5, citing collected cases.

<sup>4</sup> *Prosecutor v. Stanišić*, Case No.: IT-04-79-PT, Revised Amended Indictment, 25 September 2005; *Prosecutor v. Deronjić*, Case No.: IT-02-61-PT, Second Amended Indictment, 29 September 2003.

1. The protective measures ordered in relation to the *Deronjić* case are hereby varied to the extent that the Applicant shall be granted access to:

(a) all closed and private session transcripts produced in the sentencing proceedings of *Prosecutor v. Miroslav Deronjić* (Case No: IT-02-61),

(b) all confidential and under seal filings produced by the parties in the sentencing proceedings *Prosecutor v. Miroslav Deronjić* (Case No: IT-02-61),

(c) all confidential and under seal exhibits in the sentencing proceedings of *Prosecutor v. Miroslav Deronjić* (Case No: IT-02-61).

2. The Applicant shall not disclose to the public, as defined hereafter, any of the aforementioned confidential, or any information contained therein. For the purpose of this decision, the term “public” includes all persons, governments, organisations, entities, associations and groups other than the Judges of the International Tribunal and the staff of the Registry, the Prosecutor, the accused Mićo Stanišić, members of the Defence team that the Applicant has instructed or authorized to have access to the confidential material. The term “public” specifically includes, without limitation, family members and friends of the accused Mićo Stanišić, the accused in other cases or proceedings before the International Tribunal, the media and journalists. If the Applicant or any member of the Defence team who is authorized to have access to confidential material should withdraw from the case, any confidential material to which access is granted in this decision and that remains in their possession shall be returned to the Registry,

3. The aforementioned confidential material, save as otherwise required by this decision, shall remain subject to any protective measures previously imposed by the Trial Chamber in the first proceedings,

4. The Prosecution shall identify to the Trial chamber and the Registry, by 26 September 2007, the material in the *Deronjić* case that has been provided subject to Rule 70, and subsequently, seek leave from the Rule 70 providers to disclose this material to the Applicant and by 10 October 2007, inform the Trial Chamber and Registry whether such consent has been obtained,

**REQUESTS** the Registry:

5. To provide the Applicant with all confidential material identified in paragraph 1, above, except material identified by the Prosecution, by 26 September 2007, as provided pursuant to Rule 70,

6. Where the Rule 70 providers have consented to further disclosure, upon a request from the Prosecution under paragraph 4, above, to provide the Applicant with such material.

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

Dated this 12<sup>th</sup> day of September 2007,

At The Hague

The Netherlands



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**Kevin Parker**  
**Presiding Judge**

**[Seal of the Tribunal]**