



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-03-72-A

Date: 7 November 2007

Original: English

**IN TRIAL CHAMBER I**

**Before:** Judge Alphons Orie, Presiding  
Judge Christine Van Den Wyngaert  
Judge Bakone Justice Moloto

**Registrar:** Mr. Hans Holthuis

**Decision of:** 7 November 2007

**PROSECUTOR**

**v.**

**MILAN BABIĆ**

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***PUBLIC***

**DECISION ON MOTION TO LIFT SEAL ON THE  
JOINT MOTIONS TO CONSIDER PLEA AGREEMENT  
BETWEEN MILAN BABIĆ AND THE OFFICE OF THE  
PROSECUTOR UNDER RULE 62 TER**

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**The Office of the Prosecutor**

Ms. Christine Dahl

**Counsel for the Accused**

Mr. Peter Michael Müller  
Mr. Robert Fogelnest

**TRIAL CHAMBER I** (“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 (“Tribunal”);

**BEING SEISED** of the “Motion to lift seal on the joint motions to consider plea agreement between Milan Babić and the Office of the Prosecutor under Rule 62ter”, filed confidentially by the Prosecution on 22 August 2007 (“Motion”), whereby the Prosecution requests an order lifting the confidential status of the “Joint motion for consideration of the plea agreement between Milan Babić and the Office of the Prosecutor pursuant to Rule 62ter”, filed on 12 January 2004 (“Joint Motion”), and the “Amendment to the joint motion for consideration of the plea agreement between Milan Babić and the Office of the Prosecutor pursuant to Rule 62ter”, filed on 22 January 2004 (“Amended Joint Motion”), including the motions’ respective attachments (“Attachments”), and, subsequently, an order lifting the confidential status of the Motion itself;

**NOTING** the “Order assigning a case to a Trial Chamber” by the President of the Tribunal, filed on 24 August 2007;

**NOTING** the “Order regarding composition of Trial Chamber”, filed on 20 September 2007;

**NOTING** that Messrs. Muller and Fogelnest, who acted as defence counsel for Milan Babić in January 2004, were served with the Motion but that the Trial Chamber has not received any submissions from them;

**CONSIDERING** that Milan Babić entered his plea in open session<sup>1</sup> and that the parties have submitted, both in the Joint Motion and in the Amended Joint Motion, that it was their intention to request the Trial Chamber at the hearing scheduled to hear the plea of Milan Babić to order that the Attachments “be released as public documents”;<sup>2</sup>

**NOTING** that the matter of the lifting of the confidentiality of the Attachments was not brought up during the Further Initial Appearance of Milan Babić on 27 and 28 January 2004;

**CONSIDERING** however, that there is nothing in the Attachments which require them to be maintained confidential and, further, that they have been distributed as public documents and admitted as exhibits in *Prosecutor v. Milan Martić*, Case No. IT-95-11-T;

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<sup>1</sup> Further Initial Appearance, 27-28 January 2004.

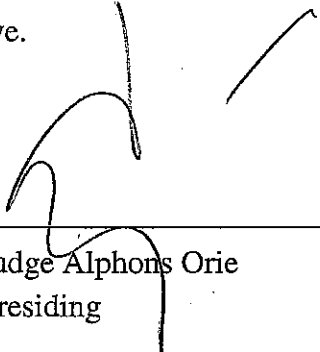
<sup>2</sup> Joint Motion, p. 1; Amended Joint Motion, p. 1.

**CONSIDERING** therefore, that good cause does not exist pursuant to Rule 62 *ter* (C) of the Rules of Procedure and Evidence (“Rules”) to maintain the confidential status of the Joint Motion, the Amended Joint Motion or the Attachments;

**PURSUANT TO** Rule 62 *ter* of the Rules;

**ORDERS** the lifting of the confidential status of the Joint Motion, the Amended Joint Motion, the Attachments, and the Motion itself.

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



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Judge Alphons Orie  
Presiding

Dated this seventh day of November 2007

At The Hague

The Netherlands

[Seal of the Tribunal]