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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-04-84-T
Date: 22 November 2007
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Frank Höpfel
Judge Ole Bjørn Støle

Registrar: Mr Hans Holthuis

Decision of: 22 November 2007

PROSECUTOR

v.

RAMUSH HARADINAJ
IDRIZ BALAJ
LAHI BRAHIMAJ

PUBLIC

DECISION LIFTING THE SEAL ON SEVEN EXHIBITS ADMITTED THROUGH
WITNESS CROSLAND

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1. On 23 October 2007, the Chamber gave its decision on the admission of exhibits tendered by the parties through witness Crosland.¹ Among the documents admitted were seven Yugoslav Army (“VJ”) documents tendered by the Prosecution, which received the exhibit numbers P833, P838, P840, P841, P842, P844 and P848. These once formed part of a composite exhibit admitted under seal in the *Prosecutor v. Limaj et al.* case, namely exhibit P92, which also consists of a number of British diplomatic telegrams provided to the Prosecution under Rule 70 of the Rules of Procedure and Evidence (“Rules”).² Because the seven VJ documents appeared not to be covered by Rule 70 of the Rules, the Chamber invited the Prosecution to inform it whether the seal on those exhibits should in fact be lifted.³

2. On 31 October 2007, the Prosecution informed the Chamber that the seal should be lifted on the seven documents as they were indeed not provided to the Prosecution pursuant to Rule 70 of the Rules.⁴ However, the Prosecution submitted that in order to lift the seal in the *Haradinaj et al.* case, it would be necessary to do so also in the *Limaj et al.* case.⁵ It argued that the situation is analogous with that governed by Rule 75(G) of the Rules and that since no Chamber remains seized of the *Limaj et al.* case, the present Chamber should lift the seal on these exhibits in that case, as well as in the present case.⁶

3. The Defence made no submissions on this matter.

4. Rule 75(G) provides that, a party to a proceeding before the Tribunal seeking to rescind, vary or augment protective measures granted to a victim or a witness by another Chamber in another proceeding before the Tribunal of which no Chamber remains seized of, should make its application before the Chamber hearing the case the moving party is part of. Therefore, a Chamber dealing with such an application may, pursuant to this Rule, unseal an exhibit admitted under seal in a different proceeding before the Tribunal.

5. The Chamber understands that in the present case, the Prosecution requests it to apply Rule 75(G) by analogy as (i) that Rule is not directly applicable in relation to the seven exhibits concerned as their unsealing would not vary, rescind or augment a protective measure

¹ T. 9794 – 9797.

² The seven exhibits were marked as P92.17, P92.22, P92.24, P92.25, P92.26, P92.28, and P92.35 in the *Limaj et al.* case.

³ T. 9796.

⁴ Prosecution’s Application to Lift the Seal on Seven Documents Admitted under Seal in the *Limaj Case*, 31 October 2007 (“Prosecution’s Application”), para. 2.

⁵ *Ibid.*, para. 4.

⁶ *Ibid.*, para. 4.

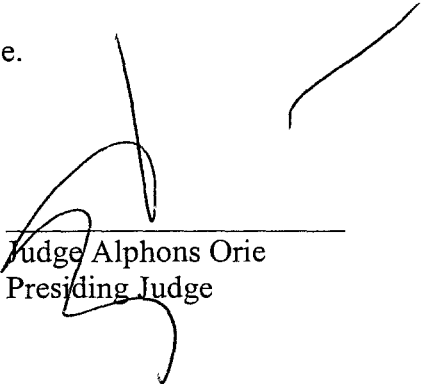
ordered in respect of a victim or a witness in the *Limaj et al.* case, and (ii) no other Chamber remains seized of that case.⁷

6. The exhibit from the *Limaj et al.* case was admitted as a single exhibit for the convenience of the Prosecution in that case, which, moreover, did not seek to have that exhibit admitted under seal in order to protect a victim or a witness, but because the majority of the documents included in that exhibit were provided to it under Rule 70 of the Rules.⁸ As noted above, the Prosecution in this case has informed the Chamber that the seven exhibits concerned here were not provided to it under that Rule. Furthermore, the Prosecution does not point to any issue related to the protection of a victim or a witness in either of the two cases concerned should the seal on the seven exhibits be lifted.

7. Therefore, the lifting of the seal on the seven exhibits in the present case would not affect the confidentiality of Rule 70 material or the protection of victims or witnesses in either the *Limaj et al.* case or the present case. Under these circumstances, by unsealing the seven exhibits in the present case, the Chamber is not required under the Rules to also unseal those exhibits in the *Limaj et al.* case.

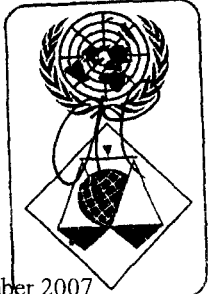
8. For the foregoing reasons, the Chamber **DECIDES** to lift the seal on exhibits P833, P838, P840, P841, P842, P844 and P848 in the present case, and **INSTRUCTS** the Registrar to make them public.

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


Judge Alphons Orie
Presiding Judge

Dated this 22nd day of November 2007
At The Hague
The Netherlands

[Seal of the Tribunal]



⁷ The Appeals Chamber rendered its judgement in the *Limaj et al.* case on 27 September 2007.
⁸ Prosecution's Application, para. 3.