



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-00-39-A
Date: 5 December 2007
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Andréia Vaz
Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Decision of: 5 December 2007

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

PUBLIC

**ORDER ON THE PUBLIC VERSION OF
MOMČILO KRAJIŠNIK'S APPEAL BRIEF**

The Office of the Prosecutor:

Mr. Peter Kremer

The Accused

Momčilo Krajišnik

Amicus Curiae

Mr. Colin Nicholls

CM

THE APPEALS 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 (“Appeals Chamber” and “Tribunal”, respectively),

NOTING the Appeals Chamber’s “Order on Appeal by Momčilo Krajišnik to the ICTY Judgement of 27 September 2006”, filed on 20 November 2007, ordering the Registry to re-file confidentially the “Appeal by Momčilo Krajišnik to the ICTY Judgement of 27 September 2006” (“Appeal Brief”), and ordering the Prosecution to advise the Appeals Chamber as to which references to protected witnesses therein should remain confidential to prevent potential disclosure of their identities;

NOTING the “Prosecution Response to Appeals Chamber Order on Appeal by Momčilo Krajišnik”, filed on 21 November 2007 (“Response of 21 November”), in which the Prosecution designates several references in Mr. Krajišnik’s Appeal Brief that could identify protected witnesses and, therefore, should remain confidential;

NOTING the “Appellant’s Objection to the Prosecution’s Motion of 21 November 2007 to Declare Parts of the Appellant’s Appeal Confidential”, submitted on 22 November 2007,¹ in which Mr. Krajišnik objects to the Prosecution’s designation of certain sections of the Appellant’s Appeal Brief as confidential because Mr. Krajišnik: (1) has not revealed the identity or personal details of protected witnesses, (2) has applied the same standards of witness protection employed by the ICTY, and (3) has referred mainly to protected transcripts, thereby preventing the possibility of disclosure of protected witnesses’ identities;

NOTING the Reply of 29 November 2007 filed by the Prosecution;²

CONSIDERING that while Mr. Krajišnik’s current Appeal Brief remains confidential to prevent the disclosure of protected witnesses’ identities to the public, the Appeals Chamber and parties to the proceeding will have access to and consider the confidential version in full;

RECALLING that in order to preserve the public anonymity of protected witnesses, the Appeals Chamber ordered the Registry to re-file Mr. Krajišnik’s Appeal Brief confidentially;

NOTING that a public version of Appellant’s Appeal Brief must be filed;³

¹ The English translation was filed on 27 November 2007.

² Prosecution Reply to “Appellant’s Objection to the Prosecution’s Motion of 21 November 2007 to Declare Parts of the Appellant’s Appeal Confidential,” 29 November 2007 (“Reply of 29 November”).

³ See *Nahimana et al. v. Prosecutor*, Case No. ICTR-99-52-A, Order to Appellant Hassan Ngeze to File Public Versions of His Notice of Appeal and Appellant’s Brief, 30 August 2007, p. 1 & n.4.

CONSIDERING that the Prosecution has adequately demonstrated that, even though the passages in question do not directly reveal witnesses' identification, the quotations and other information about these witnesses might be sufficient for someone to identify the witnesses and thereby compromise those witnesses' anonymity;

HEREBY ORDERS Mr. Krajišnik to file a public version of his Appeal Brief that incorporates the redactions requested by the Prosecution in its Response of 21 November 2007 and its Reply of 29 November, thereby preventing the disclosure of the identities of protected witnesses in this case.

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

Dated this 5th day of December 2007,
At The Hague, The Netherlands.



Fausto Pocar
Presiding Judge

[Seal of the Tribunal]