



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: 10 March 2009
Original: English

IN THE APPEALS CHAMBER

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

Acting Registrar: Mr. John Hocking

Order of: 10 March 2009

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

PUBLIC

**ORDER REGARDING PROSECUTION REQUESTS TO LIFT
CONFIDENTIALITY OF CERTAIN PROSECUTION FILINGS**

The Office of the Prosecutor:

Mr. Peter Kremer, QC

Momčilo Krajišnik *pro se*

Counsel for Momčilo Krajišnik on the Matter of JCE:

Mr. Alan M. Dershowitz
Mr. Nathan Z. Dershowitz

Amicus Curiae:

Mr. Colin Nicholls, QC

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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 “International Tribunal”, respectively);

BEING SEIZED of the “Request to Lift Confidentiality of Appendices to Supplemental Brief” and the “Request to Lift Confidentiality of Prosecution Filings Pursuant to Appeals Chamber’s Order”, both filed by the Prosecution on 11 February 2009 (“First Request” and “Second Request”, respectively);

NOTING that in the First Request, the Prosecution asks the Appeals Chamber to lift the confidential status of the appendices to its “Consolidated Supplemental Brief on the Additional Evidence of George Mano, Stefan Karganović, Radovan Karadžić and Nicholas Stewart”, filed confidentially on 18 November 2008 (“Appendices” and “Supplemental Brief”, respectively);¹

NOTING that in the Second Request, the Prosecution asks the Appeals Chamber to lift the confidential status of the “Prosecution’s Motion to Adduce Rebuttal Material”, filed confidentially on 15 September 2008 (“Motion of 15 September 2008”) and the “Urgent Prosecution Request to Direct the Registry and Krajišnik to Disclose Certain Correspondence and Decisions”, filed confidentially on 27 October 2008 (“Request of 27 October 2008”);²

NOTING that Momčilo Krajišnik has not filed a response;

RECALLING its “Order Lifting Confidentiality” of 23 January 2009, in which the Appeals Chamber lifted the confidential status of certain decisions and orders in this case and ordered “the parties and *Amicus Curiae* to file public redacted versions of their submissions adjudicated” in those decisions and orders by 16 February 2009;³

NOTING that the Prosecution argues that the Appendices were “inadvertently” filed confidentially and that “none of the exhibits and excerpts of testimony contained in the appendices are in fact confidential”;⁴

NOTING the Prosecution’s argument in relation to the Motion of 15 September 2008 and the Request of 27 October 2008 that the Appeals Chamber had ordered “to lift the confidentiality of Exhibits AD1, AD2, AD6-9, AP1-AP7 and the evidence of George Mano, Stefan Karganović and

¹ First Request, para. 4.

² Second Request, para. 1.

³ Order Lifting Confidentiality, pp. 5-6.

⁴ First Request, para. 4.



Nicholas Stewart's evidence (save for limited exceptions)" and that consequently, "there is no need for the filings to remain confidential";⁵

CONSIDERING that in these circumstances no valid reason exists why the Appendices, the Motion of 15 September 2008 and the Request of 27 October 2008 should remain confidential;

HEREBY GRANTS the First Request and the Second Request and **ORDERS** that the confidential status of the following documents be lifted:

1. "Appendices to the Consolidated Supplemental Brief on the Additional Evidence of George Mano, Stefan Karganović, Radovan Karadžić and Nicholas Stewart" of 18 November 2008 (A8092-A7537)
2. "Prosecution's Motion to Adduce Rebuttal Material" of 15 September 2008 (A7105-A7076)
3. "Urgent Prosecution Request to Direct the Registry and Krajišnik to Disclose Certain Correspondence and Decisions" of 27 October 2008 (A7283-A7279).

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

Dated this tenth day of March 2009,
At The Hague,
The Netherlands.



Judge Fausto Pocar
Presiding

[Seal of the International Tribunal]

⁵ Second Request, para. 2.