



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-95-5/18-PT

Date: 12 October 2009

Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding Judge
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Order of: 12 October 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

ORDER ON PROSECUTION'S NOTIFICATION OF ORDER OF WITNESSES

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

THIS 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”), having received the “Prosecution’s Notification of Order of Witnesses with Appendix” on 9 October 2009 (“Notification”), hereby issues the following Order in relation thereto.

1. Pursuant to the oral order of the Chamber at the pre-trial conference held on 6 October 2009, and its Order on the Procedure for the Conduct of Trial, filed on 8 October 2009, the Office of the Prosecutor (“Prosecution”) filed its first Notification of the witnesses it intends to call at trial in the period October to December 2009, on 9 October 2009. Attached as a confidential appendix to the Notification is a list of 30 witnesses, identified by a witness number with a KDZ prefix. The Prosecution states that this appendix is filed on a confidential basis “because it contains reference to protected witnesses.”¹

2. While the Trial Chamber appreciates that the identities of witnesses who are subject to protective measures should not be disclosed publicly, it considers that the filing of the Notification as a confidential document, using only KDZ numbers to refer to all of the witnesses anticipated to testify in the October–December period, is neither necessary nor in the interests of a public trial.

3. The Chamber notes that a significant number of witnesses listed by the Prosecution in its Rule 65 *ter* witness list are subject to protective measures, and anticipates that the remaining witnesses will give evidence in public, with their identities being known to the public. Indeed, many of these remaining witnesses have already testified publicly in prior proceedings at this Tribunal.

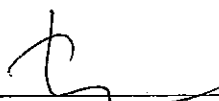
4. In light of the fact that the trial is scheduled to commence on 21 October 2009, the Chamber considers that the identities of witnesses who will testify in the months covered by the Notification, and who are not subject to protective measures, should be made public. The Prosecution should therefore re-file its Notification as a public document and using the witnesses’ actual names in addition to their KDZ numbers, with the exception of those witnesses currently subject to protective measures, who may be identified only by KDZ number. Should the Prosecution show good cause as to why the identities of witnesses who are not subject to protective measures orders should remain confidential, the Chamber will consider the matter further.

¹ Notification, footnote 2.

5. The Chamber expects that future lists of witnesses, as required by the “Order on the Procedure for the Conduct of Trial”, will be also filed in this manner, and it is for the presenting party to show good cause as to why the identities of non-protected witnesses who are included on these lists should remain confidential.

6. For these reasons, pursuant to Rule 54 of the Tribunal’s Rules of Procedure and Evidence, the Trial Chamber hereby **ORDERS** the Prosecution to re-file its Notification as a public document, identifying its non-protected witnesses by name, or providing reasons as to why the identities of some or all of these witnesses should not be public.

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



Judge O-Gon Kwon
Presiding

Dated this twelfth day of October 2009
At The Hague
The Netherlands

[Seal of the Tribunal]