



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-09-92-T
Date: 31 August 2016
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Bakone Justice Moloto
Judge Christoph Flügge

Registrar: Mr John Hocking

Order of: 31 August 2016

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**ORDER ON THE CLASSIFICATION OF FILINGS
RELATED TO WITNESS ANDREY DEMURENKO**

Office of the Prosecutor

Mr Peter McCloskey

Mr Alan Tieger

Counsel for Ratko Mladić

Mr Branko Lukić

Mr Miodrag Stojanović

TRIAL CHAMBER I 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 (“Chamber” and “Tribunal”, respectively);

NOTING that on 16 June 2016, Defence witness Andrey Demurenko failed to appear in court to complete his testimony, and the Chamber invited the parties to make submissions on how to proceed;¹

NOTING that on 17 June, the Registry filed confidentially a memorandum from the Victims and Witnesses Section (“VWS”) concerning its interactions with Mr Demurenko;²

NOTING that on 20 June, the parties filed publicly written submissions pursuant to the Chamber’s 16 June invitation, which the Chamber provisionally placed under seal following a request from the Registry;³

NOTING that on 24 June, the Registry filed a submission clarifying that the 17 June VWS memorandum was filed confidentially and should remain confidential to protect the identities of the VWS personnel and to maintain the confidentiality of its communications with Mr Demurenko, which the Registry submits is important for maintaining the confidence of witnesses and fulfilling the mandate of the VWS in supporting witnesses, as witnesses must be able to communicate with the VWS without fear that their communications might be made public;⁴

CONSIDERING that redacting the names of Tribunal personnel in the 17 June VWS memorandum would address the Registry’s interest in protecting the identities of the VWS personnel;

NOTING that on 2 August, the Chamber informed the parties that it would ask Mr Demurenko whether he would be willing to waive the confidentiality of his communications with the VWS as contained in the 17 June VWS memorandum and that, should Mr Demurenko waive this confidentiality, it would hear from the parties as to whether they would oppose an instruction to the Registry to file a public version of the 17 June VWS memorandum, redacting the names of Tribunal personnel, and to reclassify the parties’ confidential submissions of 20 June as public;⁵

¹ T. 44199.

² Internal Memorandum regarding Witness Mr. Andrey Demurenko, 17 June 2016 (Confidential).

³ Defence Submission Pursuant to Trial Chamber Order of 16 June 2016 in Relation to Witness Demurenko, 20 June 2016 (Confidential); Prosecution Submission Regarding the Testimony of Andrey Demurenko, 20 June 2016 (Confidential). The Registry communicated its request to the Chamber by email on 20 June.

⁴ Deputy Registrar’s Submission in Relation to the Defence Submission of 20 June 2016, 24 June 2016, paras 1-3, 5.

⁵ Decision on Issues Relating to Witness Andrey Demurenko, 2 August 2016, para. 7.

NOTING that on 16 August, Mr Demurenko informed the Chamber that, having read the 17 June VWS memorandum, he was not opposed to it being made public;⁶

CONSIDERING that Mr Demurenko's consent to waive the confidentiality of his communications with the VWS as contained in the 17 June VWS memorandum addresses the Registry's interest in maintaining the confidentiality of its communications with this witness;

NOTING that on 16 August, the Chamber invited the parties to submit any opposition to the Chamber instructing the Registry to file a public version of the 17 June VWS memorandum, redacting the names of Tribunal personnel, and to reclassify the parties' confidential submissions of 20 June as public;⁷

CONSIDERING that neither party responded to the Chamber's 16 August invitation;

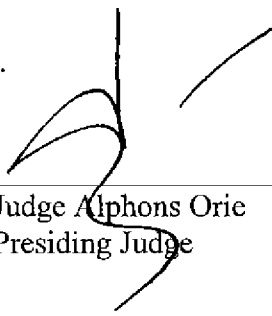
RECALLING the Chamber's previous assertion that it is in the interest of transparency to make as much as possible of the 17 June VWS memorandum public;⁸

FOR THE FOREGOING REASONS

INSTRUCTS the Registry to file a public version of the 17 June VWS memorandum, redacting the names of Tribunal personnel; and

INSTRUCTS the Registry to reclassify the parties' confidential submissions of 20 June 2016 as public.

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



Judge Alphons Orie
Presiding Judge

Dated this thirty-first day of August 2016
At The Hague
The Netherlands

[Seal of the Tribunal]

⁶ T. 44238-44239.

⁷ T. 44239.

⁸ Decision on Issues Relating to Witness Andrey Demurenko, 2 August 2016, para. 7.