

In the Trial Chamber II

03 JUNE 2009

Case No. IT-03-67-R77.2
Date : 29 May 2009

Before:

Judge O-Gon Kwon, Presiding
Judge Kevin Parker
Judge Iain Bonomy

Registrar:

Mr. John Hocking

Public Redaction Order

The Prosecutor
V
Vojislav Šešelj

Order to redact the public transcript
and the public broadcast of a hearing

The Trial Chamber

(At the request of the Prosecutor / Defence and with the agreement of the parties)

ORDERS that the following blackened text be omitted from the public transcript of the hearing dated 29 May 2009 and be edited from the public broadcast of the hearing.

20:17:11:46 Mr. Kwon at the time was the Judge in the Milosevic trial, for
21:17:11:50 example. I don't think Mr. Bonomy was in the trial yet when Milan Babic
22:17:11:58 testified as a protected witness. I followed the trial in Belgrade and
23:17:12:02 immediately identified Milan Babic on what he was saying in the
24:17:12:05 courtroom. Several days later the protective measures were lifted and
25:17:12:09 Milan Babic continued to testify in open session, publicly.
60:17:12:11 So that is all possible by deduction and by using your
61:17:12:20 intelligence. Experts 20 years ago established that my IQ was above 240.
62:17:12:31 Perhaps these experts are telling lies.
63:17:12:34 Now, how -- what's Mr. MacFarlane's IQ. I don't know. Before
64:17:12:38 this trial I thought his IQ was much higher than I think it is now, but
65:17:12:43 of course I don't want to say anything derogatory about anyone because he
66:17:12:47 has raised the question of intelligence and the capabilities of an
67:17:12:51 average man, so that brings me to these associations without wishing to
68:17:12:56 insult him.
69:17:12:57 Now, who could have concluded -- who this was about when it came
70:17:13:02 to three protected witnesses in reading this book? Well, ask yourselves,
71:17:13:20 Who has had the time and put in the effort to read a book that is 1,200
72:17:13:20 pages long just to have the names of protected witnesses disclosed?
73:17:13:21 That's not what you would have done. You print an anonymous flyer, an
74:17:13:24 anonymous pamphlet and nobody knows who the author of it is and you
75:17:13:29 disclose the names and then you call in people to intimidate the
76:17:13:31 witnesses, to instill fear. In Haradinaj, for example, protected
77:17:13:36 witnesses were killed. In no Serb trial did you have anything of that
78:17:13:40 kind. How many witnesses were killed in the Haradinaj case, ten?
79:17:14:05 Dozens? Who knows?
80:17:14:05 The Prosecutor goes on to say that this is a very serious problem
81:17:14:05 in this case. That's just not true. It's absolutely not true. There is
82:17:14:05 no problem here. All we have here is the Prosecutors thinking up this
83:17:14:11 problem when they faced fiascon in the main trial.
84:17:14:14
85:17:14:19
86:17:14:25
87:17:14:30
88:17:14:36 book was being sold at the supermarket promotional stand was later distributed
89:17:14:41 free of charge, and you can download any copy free of charge from my
90:17:14:47 internet site because I don't charge on my site.
91:17:14:53 So a lot of time went by until this idea came to the Prosecutor

Judge O-Gon Kwon
Presiding Judge

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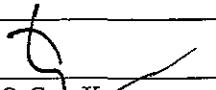
ORDERS that the following blackened text be omitted from the public transcript of the hearing dated 29 May 2009 and be edited from the public broadcast of the hearing.

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24 17:07:19 is a testimony which refutes the allegations from the indictment.
 25 17:07:26 Whether my objective was to publicly disclose the names of
 25:1 17:07:35 protected witnesses and thereby intimidate them, Judges, you know that
 2 17:07:44 Serbia and Yugoslavia for nearly half a century were under the Communist
 3 17:07:53 dictatorship and the Communist Marshal Tito and his successors. This
 4 17:08:00 Communist regime put a ban, a judicial ban on seven of the books that I
 5 17:08:05 wrote. I have to reluctantly admit that the prosecutors in those trials
 6 17:08:15 against me had prepared themselves much thoroughly than this Prosecutor
 7 17:08:20 of the International Criminal Tribunal has done. They had read all the
 8 17:08:25 books from cover to cover, and according to the practices then in place
 9 17:08:32 did their job, but were -- they were much better prepared.
 10 17:08:36 We have here a Prosecutor who has no idea what this book
 11 17:08:41 contains. He is making arbitrary allegations that my intention was to
 12 17:08:47 disclose the names of protected witnesses and therefore intimidate them.
 13 17:08:52 You know that I'm still the president of the largest opposition
 14 17:08:57 party in Serbia, the Serbian Radical Party. It has over 500.000
 15 17:09:03 registered members.
 16 17:09:04 If I had wanted to publish the names of protected witnesses, I
 17 17:09:11 could have issued an order through my associates, through anyone, to
 18 17:09:14 print a flyer with the name of all the protected witnesses and to have it
 19 17:09:21 printed in 100.000 copies and distributed throughout Serbia. And I could
 20 17:09:31 even add the photographs of those who were most unpleasant and also
 21 17:09:36 provide their personal details such as address, et cetera. If that had
 22 17:09:45 been my objective, I could have done that. There's a large number of
 23 17:09:49 private printing offices in Serbia, and if I had taken that course of
 24 17:09:55 action, no investigation could have proven who had been behind it.
 25 17:09:59 Therefore, if was not my aim to intimidate and instil fear into
 59:1 17:10:04 protected witnesses or to make their names public. It was my name to
 2 17:10:10 uncover the [REDACTED] was a construed one based
 3 17:10:17 on false accusations, on false statements, and that's what I've proved
 4 17:10:26 during the proceedings and trial against me. Not one stone has been left
 5 17:10:28 standing of any of the accusations or anything else, and that's why the
 6 17:10:32 whole trial has been blocked. And the Trial Chamber doesn't know how to
 7 17:10:36 deal with this problem and get out of this cul-de-sac ^, and they cannot
 8 17:10:43 acquit me, and they cannot act upon the requirements of the Prosecution.
 9 17:10:48 So it's checkmate. How long this will go on, I don't know. We'll see.
 10 17:10:53 And it's not important. I have patience myself, seven years and then
 11 17:10:57 another seven years. I can stay here another 70 years if need be.

[Redacted transcript toolbar]


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 Presiding Judge

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17 17:06:43 and published as such.
18 17:06:45 When the Prosecutor said -- when -- when the Prosecutor says that
19 17:06:49 a witness can be identified on the basis of the contract on swapping
20 17:06:55 flats, he extracted only one portion of the contract. However, there are
21 17:07:01 a whole array of other contracts on swapping flats or residences in which
22 17:07:07 the contracting parties are not witnesses in this trial, because I
23 17:07:13 published in my book all the contracts that we managed to obtain, which
24 17:07:19 is a testimony which refutes the allegations from the indictment.
25 17:07:26 Whether my objective was to publicly disclose the names of
58:1 17:07:35 protected witnesses and thereby intimidate them, Judges, you know that
2 17:07:44 Serbia and Yugoslavia for nearly half a century were under the Communist
3 17:07:53 dictatorship and the Communist Marshal Tito and his successors. This
4 17:08:00 Communist regime put a ban, a judicial ban on seven of the books that I
5 17:08:05 wrote. I have to reluctantly admit that the prosecutors in those trials
6 17:08:15 against me had prepared themselves much thoroughly than this Prosecutor
7 17:08:20 of the International Criminal Tribunal has done. They had read all the
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12 17:08:47 disclose the names of protected witnesses and therefore intimidate them.
13 17:08:52
14 17:08:57
15 17:09:03 .
16 17:09:04
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18 17:09:14
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20 17:09:31
21 17:09:36
22 17:09:45
23 17:09:49
24 17:09:55
25 17:09:59 Therefore, it was not my aim to intimidate and instill fear into
59:1 17:10:04 protected witnesses or to make their names public. It was my name to
2 17:10:10 uncover the affair as such because the affair was a construed one based
3 17:10:17 on false accusations, on false statements, and that's what I've proved
4 17:10:26 during the proceedings and trial against me. Not one stone has been left



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17 14:56:42 "A few days after the beginning of the trial of Dr. Vojislav
 18 14:56:45 Seselj, the latest book from the ^ of the Serb radical leader was
 19 14:56:51 publicly promoted in the presence of a large number of outstanding public
 20 14:56:56 personalities."
 21 14:56:58 The point is that that article indicates that the book came out
 22 14:57:01 approximately a few days after the beginning of the main trial, which
 23 14:57:05 would fix it on or about the 7th of November of 2007.
 24 14:57:19 Some portions of the transcripts are relevant, in my respectful
 25 14:57:28 submission, to the issue of mens rea, and there's two -- two transcripts
 17:14:57:43 in particular. The first occurred on the 9th of October, 2006, at page
 12 14:57:56 10562. The accused said in essence this: "But I insist on the fact that
 3 14:58:07 it was only members of the team for my defence who took part and the
 4 14:58:11 composition of that team is something I let the registry know in advance
 5 14:58:15 on time so how could I before ^ how could I have instructed the
 6 14:58:19 investigators to compile this become of 1.200 pages for the whole ^
 7 14:58:39 affair was uncovered and unveiled. That is the fruit of their labour
 8 14:58:40 pursuant to my instructions. They are my extended arm in all of this."
 9 14:58:49 That indicates the nature of the relationship between the advisors on the
 10 14:58:49 team and the accused. The advisor and the team appear to have largely
 11 14:58:50 prepared it but pursuant to the instructions as an extended arm of the
 12 14:58:54 accused.
 13 14:58:54 A similar comment was made by the accused on the 21st of October,
 14 14:59:01 2008 at pages 10810 and 10811. To make sure it's seen in context I'll
 15 14:59:22 read that paragraph.
 16 14:59:22 JUDGE KWON: Mr. MacFarlane, sorry to interrupt you, but can I
 17 14:59:25 remind you to try not to reveal the information that may reveal the title
 18 14:59:34 of the book, et cetera.
 19 14:59:35 MR. MACFARLANE: Thank you.
 20 14:59:36 JUDGE KWON: Please go on.
 21 14:59:37 MR. MACFARLANE: I'll endeavour to steer around some words. The
 22 14:59:47 accused is reported as having said this: "Now, in addition to this
 23 14:59:55 ^ that is great deal of mystification on the basis of this book and
 24 14:59:57 it's a report that my associates compiled for me as an attachment for pie
 25 15:00:02 last complaint against the indictment. You know, the text was a letter
 18:15:00:06 lengthy one, about 300 pages, and you ordered that it should not be
 21:50:15 transcribed into English. I said it should be printed and published but
 3:15:00:15 that the names be thrown out and that the code-names be used, the codes
 4:15:00:19 used by the Prosecution and in that book you'll see those codes." And

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13 14:56:29 by Vojislav Šešelj," and then it sets out the name of the book which I
 14 14:56:32 won't go into at the moment.
 15 14:56:35 The very first paragraph of that article indicates a few days --
 16 14:56:40 I'll read the first sentence:
 17 14:56:42 "A few days after the beginning of the trial of Dr. Vojislav
 18 14:56:45 Šešelj, the latest book from the ^ of the Serb radical leader was
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Screencap of the Redacting software interface showing the transcript text and the redacted area.

The transcript text is as follows:

14:54:12 proud of it, and thanks to these legal proceedings there's been a lot of
 14:54:16 interest in the book on his internet site several thousand copies have
 14:54:23 been photocopied and reproduced and that he was very satisfied.
 14:54:27 That addresses the question of the scope of the publication of
 14:54:32 this book.
 14:54:35 On another occasion, on the 11th of February, 2009, at page
 14:54:39 14238, the accused noted that in fact the whole -- to use his words, "The
 14:54:57 whole book has been sold out, by the way." It's only available on his
 14:55:00 web site.
 14:55:04 I think I'll leave it at that point. There's other transcripts
 14:55:08 dealing with the promotion and the scope of the publication, but with a
 14:55:11 view to expediting proceedings, I would simply note that in hurt could
 14:55:17 have ski ^ the transcripts indicate that several hundred copies were
 14:55:22 distributed, that in Belgrade at the trade union building during one of
 14:55:26 the promotions there were approximately 3,000 people present. And I
 14:55:32 think I'll leave it at that in terms of scope.
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In the Trial Chamber II

Case No.

IT-03-67-R77.2

Date :

29 May 2009

Before: Judge O-Gon Kwon, Presiding
 Judge Kevin Parker
 Judge Iain Bonomy

Registrar: Mr. John Hocking

Public Redaction Order

The Prosecutor
 V
 Vojislav Šešelj

Order to redact the public transcript
 and the public broadcast of a hearing

The Trial Chamber

(At the request of the Prosecutor / Defence and with the agreement of the parties)

ORDERS that the following blackened text be omitted from the public transcript of the hearing dated 29 May 2009 and be edited from the public broadcast of the hearing.

15|14:28:31 highly problematic to ask that documents be directly entered into
 16|14:28:34 evidence in this way. However, bearing in mind the fact that here we're
 17|14:28:38 dealing with generally known documents, at least it is common knowledge
 18|14:28:44 to this Tribunal, I'm not going to object to that either, because I think
 19|14:28:48 there's no reason for me to object to documents for which it is a
 20|14:28:55 notorious fact that they are in existence. So that would be
 21|14:28:59 unreasonable. It would be unreasonable to object. But I'd like to draw
 22|14:29:02 your attention to the fact that there are too many documents which are
 23|14:29:06 not needed and which encumber and burden the list. Many things are not
 24|14:29:12 being challenged from the outset. It is -- I'm not challenging that I'm
 25|14:29:17 the author of the book. So there's no need to prove that on the basis of
 6|14:29:20 documents. I have said that a number of times. I have also explained
 2|14:29:24 during the main proceedings the way in which I compiled the book and gave
 3|14:29:28 instructions for the book's printing.
 4|14:29:32 So we would have to discuss matters here which are contentious,
 5|14:29:40 and what is contentious is whether there was disclosure of protected
 6|14:29:45 witnesses at all or not.
 7|14:29:51 And then the question of motivation comes into play. What my
 8|14:29:55 motives were. Were my motives to disclose the names of protected
 9|14:29:59 witnesses or to unmask a plot in public with respect to an [REDACTED] that is
 10|14:30:06 incorporated into my indictment for which there is no legal grounds, and I
 11|14:30:10 think that is the substance of the matter and the essential question. So
 12|14:30:16 I have nothing against having evidence -- having admitted into evidence
 13|14:30:23 that three witnesses enjoyed protective measures and that I was informed
 14|14:30:28 on time that they were protected witnesses and that I knew that their
 15|14:30:32 names could not be disclosed. That can be admitted into evidence
 16|14:30:35 straight away. There's no reason for me to challenge that at all and
 17|14:30:47 oppose it. So that's a whole set of documents here which the prosecutor
 18|14:30:48 has attached.
 19|14:30:48 Then I have no objection to having all the transcripts from the
 20|14:30:53 main trial admitted into evidence and my comments about the book and the
 21|14:30:56 portions where I explain how the book came into being in the first place,
 22|14:31:00 and we have documents here testifying to the publication of the book and
 23|14:31:06 its public promotions in Serbia. I have nothing against that either. I
 24|14:31:11 don't object to that being admitted into evidence, and if I'm not
 25|14:31:16 contesting it, then why?
 7|14:31:17 And here we have statements which were made by these protected
 2|14:31:23 witnesses on several occasions. Now, is that necessary? Do you need to



Judge O-Gon Kwon
 Presiding Judge