



International Tribunal for the  
Prosecution of Persons  
Responsible for Serious Violations of  
International Humanitarian Law  
Committed in the Territory of  
Former Yugoslavia since 1991

Case No. IT-94-14-T  
Date: 17 June 1996  
Original: FRENCH and  
English

**IN THE TRIAL CHAMBER**

**Before:** Judge Claude Jorda, Presiding  
Judge Elizabeth Odio Benito  
Judge Fouad Riad

**Registrar:** Mr. Dominique Marro, Deputy-Registrar

**Decision:** 17 June 1996

**PROSECUTOR**

v.

**Tihomir BLAŠKIĆ**

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**DECISION ON THE PROSECUTOR'S MOTION REQUESTING PROTECTIVE  
MEASURES FOR WITNESSES AND VICTIMS**

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**The Office of the Prosecutor**

**Mr. Eric Ostberg**

**Mr. Greg Kehoe**

**Counsel of the Accused**

**Mr Zvonimir Hodak**

TRIAL CHAMBER I, SITTING IN PUBLIC SESSION

**NOTING** the request presented by the Prosecutor on 4 June 1996 seeking the protection of the victims and witnesses whose statements were attached to the indictment for confirmation (Statements),

**NOTING** Articles 20, 21 and 22 of the Statute of the Tribunal (the Statute) and Rules 66 and 69 of the Rules of Procedure and Evidence (the Rules),

**HAVING HEARD** the Prosecutor, General Blaškić, and his counsel during the hearing today,

**CONSIDERING** that during the hearing, and at the invitation of the Trial Chamber, the Prosecutor modified the conclusions presented in his request and indicated his willingness to transmit to the Defence the Statements, with the names and other identifying data redacted;

**CONSIDERING** that the Defence has agreed to such a procedure conditional both on the Statements having been translated into a language which the accused understands and on the identity of the witnesses and victims having been disclosed in sufficient time prior to the trial to allow adequate time for preparation of the defence of the accused;

**CONSIDERING** that it should be recalled that under the terms of paragraph 1 of Article 20 of the Statute, the Chamber must ensure that “a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence, with full respect for the rights of the accused and due regard for protection of victims and witnesses”; that Sub-rule 69 (A) of the Rules provides that “in exceptional circumstances, the Prosecutor may apply to a Trial Chamber to order the non-disclosure of the identity of the victim or witness who may be in danger or at risk until such person is brought under the protection of the Tribunal”;

**CONSIDERING** that in respect of the right of the accused to a fair trial and the rights of the victims and witnesses to protection, this Tribunal has stated that “the International Tribunal must interpret its provisions within its own context and determine where the balance lies between the accused’s right to a fair and public trial and the protection of victims and witnesses within its unique legal framework” (*Prosecutor v. Tadić*, No. IT-94-1-T, Decision of 10 August 1995 on the Prosecutor’s Motion Requesting Protective Measures for Victims and Witnesses, para. 30);

**CONSIDERING** that the Trial Chamber considers that the circumstances mentioned by the Prosecutor demonstrate the exceptional circumstances demanded by the provisions of Sub-rule 69 (A) of the Rules, specifically, that the accused occupies a high ranking command position in the army of the self-proclaimed Croatian territory (HVO); that he has been charged with responsibility for serious war crimes committed by the HVO personnel under his command; and that the Prosecutor is encountering many difficulties because the majority of the witnesses live or are required to move through territory currently under the control of the HVO;

**CONSIDERING** that the disclosure to the Defence of the names and other identifying data of witnesses and victims should be delayed until such time as they have been placed under the protection of the Tribunal, pursuant to Sub-rule 69 (A) of the Rules; that such a measure, at this stage, does not prejudice the rights of the accused as stipulated in Article 21 of the Statute;

**CONSIDERING** that Sub-rule 69 (C) of the Rules provides that without prejudice to the provisions of Rule 75 of the Rules, the identity of the victims or witnesses shall be disclosed in sufficient time prior to the trial to allow the Defence sufficient time to prepare his defence;

**FOR THE FOREGOING REASONS**

**ORDERS** the Prosecutor to transmit to the Defence without delay, and at the latest by 24 June 1996, in accordance with Sub-rule 66 (A) of the Rules, the statements of the victims and witnesses which were attached to the indictment for confirmation, with the names and other identifying data having been redacted,

**INSTRUCTS** the Registry to take all the necessary measures as quickly as possible, and at the latest by 26 July 1996, so that the statements are translated and transmitted in a language which the accused understands;

**STATES** that in accordance with Sub-rule 69 (C) of the Rules, the names and other identifying data shall be transmitted to the Defence as quickly as possible, and at the latest by 1 September 1996;

**STATES** that, under the terms of Rules 75 of the Rules, the Prosecutor may, before that date, request the Trial Chamber to order appropriate measures for protection of the witnesses and victims;

**RESERVES** for the Defence the right to request, at any time, that the names and other identifying data of the witnesses and victims be disclosed.

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Claude Jorda  
Presiding Judge, Trial Chamber I

Done this seventeenth day of June 1996  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**