

**UNITED
NATIONS**



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-98-32-PT
Date: 8 September 2000
Original: English

IN TRIAL CHAMBER II

Before: Judge David Anthony Hunt, Presiding
Judge Florence Ndepele Mwachande Mumba
Judge Liu Daqun

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 8 September 2000

PROSECUTOR

v.

MITAR VASILJEVIĆ

DECISION ON MOTION BY PROSECUTION FOR PROTECTIVE MEASURES

The Office of the Prosecutor:

Ms Joanna Korner
Ms Nancy Patterson
Ms Anne Sutherland

Counsel for the Accused:

Mr Vladimir Domazet

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 ('the Tribunal');

BEING SEISED of the Prosecutor's "Motion for Protective Measures" ("Motion") filed on 27 January 2000 in which the Prosecutor requests the Trial Chamber to grant certain protective measures;

NOTING the "Defence Pre-Trial Brief" ("Defence Brief") filed on 28 June 2000 in which the Defence agrees with the Motion for Protective Measures;

HAVING CONSIDERED the principles set out by the Trial Chamber in the "Decision on Motion by Prosecution for Protective Measures" of 3 July 2000 in *Prosecutor v Brđanin & Talić*, IT-99-36-PT ("Decision");

NOTING the "Order for Extension of Time" issued on 25 July 2000 in which the Trial Chamber granted the Defence an opportunity to reconsider its agreement to the protective measures in light of the Decision, of which the Defence could not have been aware of at the time of filing the Defence Brief;

NOTING the "Response to the Decision of 25 July 2000" filed on 2 August 2000 ("Response"), in which the Defence agrees to the measures set out in paragraph 65 of the Decision as they pertain to the present case;

NOTING that the Response sets out a reservation to paragraph 65(4)(b) of the Decision;

NOTING that the Defence have not commented on the interpretation of the reservation set out in the "Request Seeking Clarification" ("Request") of 15 August 2000, with the resulting effect that the reservation has been interpreted as set out in the Request;

HEREBY MAKES THE FOLLOWING ORDERS:

1. For the purposes of these orders:
 - (a) “the Prosecutor” means the Prosecutor of the Tribunal and her staff;
 - (b) “Vasiljević Defence” means only the accused Mitar Vasiljević and such defence counsel and their immediate legal assistants and staff, and others specifically assigned by the Tribunal to Mitar Vasiljević’s trial defence team and specifically identified in a list to be maintained by lead counsel and filed with the Trial Chamber *ex parte* and under seal within ten days of the entry of this order. Any and all additions and deletions to the initial list in respect of any of the above categories of persons who are necessarily and properly involved in the preparation of the defence shall be notified to the Trial Chamber in similar fashion within seven days of such additions or deletions;
 - (c) “the public” means all persons, governments, organisations, entities, clients, associations and groups, other than the judges of the Tribunal and the staff of the Registry (assigned to either Chambers or the Registry), and the Prosecutor, and the Vasiljević Defence, as defined above. “The public” specifically includes, without limitation, family, friends and associates of the accused, the co-accused, the accused in other cases or proceedings before the Tribunal and defence counsel in other cases or proceedings before the Tribunal; and
 - (d) “the media” means all video, audio and print media personnel, including journalists, authors, television and radio personnel, their agents and representatives.

2. The Prosecutor is to comply, on or before 6 October 2000 at 4.00 pm, with her obligation under Rule 66(A)(i) of the Rules of Procedure and Evidence to supply to each of the accused copies in unredacted form of the supporting material which accompanied the indictment when confirmation was sought as well as all prior statements obtained by her from that accused;

provided that, in the event that the Prosecutor files a motion within that period for protective measures in relation to particular statements or other material or particular victims or

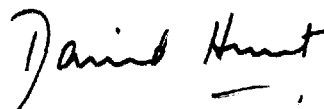
witnesses (which shall be identified in such motion by a number or pseudonym), she need not supply unredacted copies of those statements or that other material identified in that motion until that motion has been disposed of by the Trial Chamber, and subject to the terms of any order made upon that motion.

3. The Vasiljević Defence shall not disclose to the media any confidential or non-public materials provided by the Prosecutor.
4. Save as is directly and specifically necessary for the preparation and presentation of this case, the Vasiljević Defence shall not disclose to the public:
 - (a) the names, identifying information or whereabouts of any witness or potential witness identified to them by the Prosecutor; or
 - (b) any evidence (including documentary, physical or other evidence) or any written statement of a witness or potential witness, or the substance, in whole or part, of any such non-public evidence, statement or prior testimony disclosed to them by the Prosecutor.
5. If the Vasiljević Defence find it directly and specifically necessary to disclose such information for the preparation and presentation of this case, they shall inform each person among the public to whom non-public material or information (such as witness statements, prior testimony, or videos, or the contents thereof), is shown or disclosed, that such a person is not to copy, reproduce or publicise such statement or evidence, and is not to show or disclose it to any other person. If provided with the original or any copy or duplicate of such material, such person shall return it to the Vasiljević Defence when such material is no longer necessary for the preparation and presentation of this case.
6. If a member of the Vasiljević Defence team withdraws from the case, all material in his or her possession shall be returned to the lead defence counsel.
7. The remaining orders sought by the Motion for Protective Measures dated 27 January 2000 are refused.

8. Nothing herein shall preclude any party or person from seeking such other or additional protective orders or measures as may be viewed as appropriate concerning a particular witness or other evidence.

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

Dated this 8th day of September 2000,
At The Hague,
The Netherlands.



Judge David Hunt
Presiding Judge

[Seal of the Tribunal]