



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-00-39 & 40-PT
Date: 17 September 2001
Original: ENGLISH

IN THE TRIAL CHAMBER

Before: Judge Richard May, Presiding
Judge Patrick Robinson
Judge Mohamed Fassi Fihri

Registrar: Mr. Hans Holthuis

Decision of: 17 September 2001

PROSECUTOR

v.

**MOMČILO KRAJIŠNIK
BILJANA PLAVŠIĆ**

DECISION ON PROSECUTION'S MOTION FOR PROTECTIVE MEASURES

The Office of the Prosecutor:

Mr. Mark Harmon
Mr. Alan Tieger

Counsel for the Accused:

Mr. Deyan Ranko Brashich and Mr. Goran Nešković, for Momčilo Krajišnik
Mr. Robert J. Pavich and Mr. Eugene O'Sullivan, for Biljana Plavšić

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 (“International Tribunal”),

BEING SEISED OF a confidential and *ex parte* “Prosecutor’s Motion for Protective Measures pursuant to Rule 75 (A) and Rule 75 (D)” filed on 7 September 2001 pursuant to Rule 75 (A) and (D) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), asking this Chamber to request, on behalf of the Prosecution, other Trial Chambers seized of various cases or the President of the International Tribunal, to vary the protective measures in respect of certain witnesses who have testified before those other Chambers, “in order to enable the use of the protected material and appearance of the witnesses in this proceeding” (“Motion”),¹

CONSIDERING that there is no need to make this decision confidential or *ex parte*, which contains no information about the witnesses identified in the Motion,

NOTING that Rule 75 (D) of the Rules requires that “once protective measures have been issued in respect of a victim or witness, only the Chamber granting such measures may vary or rescind them or authorise the release of protected material to another Chamber for use in other proceedings. If, at the time of the request for variation or release, the original Chamber is no longer constituted by the same Judges, the President may authorise such variation or release, after consulting with any Judge of the original Chamber who remains a Judge of the Tribunal and after giving due consideration to matters relating to witness protection”,

NOTING the decisions of Trial Chamber II that set forth the correct procedure for filing motions before Trial Chambers pursuant to Rule 75 (D) of the Rules,²

NOTING that the various Trial Chambers identified in the Motion are still constituted by the same Judges who imposed the protective measures in question,

PURSUANT to Rule 75 (D) of the Rules,

¹ The Motion, para. 23.

² Decision on Second Motion by Radoslav Brđanin for Access to Confidential Documents, Case No. IT-99-36-PT, 20 June 2001; Decision on Second Motion by Momir Talić for Access to Confidential Documents, Case No. IT-99-36-PT, 26 June 2001; Decision on Request pursuant to Rule 75 (D) by Prosecution in *Prosecutor v Momčilo Krajišnik & Biljana Plavšić (Case IT-00-39&40-PT)*, Cases Nos. IT-94-2-PT, IT-98-32-PT, IT-99-36-PT, 16 July 2001.

HEREBY DIRECTS the Prosecution to file the Motion before the relevant Trial Chambers that imposed the protective measures which the Prosecution is seeking to modify by way of the Motion, **AND DISMISSES** the Motion.

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



Richard May
Presiding

Dated this seventeenth day of September 2001
At The Hague
The Netherlands

[Seal of the Tribunal]