



**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: IT-99-36-PT

Date: 19 September 2001

Original: English

IN TRIAL CHAMBER II

Before: Judge David Hunt, Pre-Trial Judge

Registrar: Mr Hans Holthuis

Decision of: 19 September 2001

PROSECUTOR

v

Radoslav BRĐANIN & Momir TALIĆ

DECISION ON DISCLOSURE OF WITNESSES' IDENTITIES TO DEFENCE

The Office of the Prosecutor:

**Ms Joanna Korner
Mr Andrew Cayley
Mr Nicolas Koumjian
Ms Anna Richterova
Ms Ann Sutherland**

Counsel for Accused:

**Mr John Ackerman for Radoslav Brđanin
Maître Xavier de Roux and Maître Michel Pitron for Momir Talić**

1. The trial has now been fixed to commence on 21 January 2002, and it becomes necessary to consider when the prosecution must disclose to the accused the identities of those ten witnesses which the prosecution has so far been permitted to delay having to disclose.¹

2. The length of the time before the trial commences at which the prosecution must make the disclosure of those identities to the accused was discussed in some detail in the Trial Chamber's first decision concerning the protective measures sought by the prosecution.² What is a reasonable time will depend upon a number of factors – including whether or not the particular witness directly implicates the accused, the degree of risk to the witness involved once his or her identity is disclosed to the accused, the number of witnesses to be investigated once that disclosure takes place and the circumstances under which that investigation will have to take place.

3. I accept that there is a disparity between the resources available to each of the two accused in the present case. That is obvious. However, it would be wrong to disclose the identities to one of the accused at a later time than they are disclosed to the other, simply because the first may take longer to conduct the necessary investigations. The time chosen for the disclosure to both accused must take into account the resources available to the accused who has the lesser resources.

4. The time chosen must also take into account the anticipated disruptions to those investigations which will be caused by the non-Orthodox Christmas, the Orthodox Christmas and the Orthodox New Year (which involves, I am informed, the beginning of the Third Millennium for Orthodox religions).

¹ Order, 23 Feb 2001; Decision on Sixth Motion by the Prosecution for Protective Measures, 3 Sept 2001.

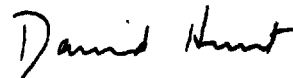
² Decision on Motion by Prosecution for Protective Measures, 3 July 2000 ("First Protective Measures Decision"), pars 33-38.

5. I have given careful consideration to the information provided by the prosecution in relation to each of the ten witnesses (including that provided on an *ex parte* basis), and the submissions which both parties have made at every stage of the long process by which the protective measures have been determined. In particular, I have given consideration to each of the witnesses on an individual basis.

6. The prosecution is ordered to reveal, on a confidential basis, to both of the accused the identity of witnesses 7.26, 7.30, 7.74 and 7.75 on or before 7 October 2001, the identity of witnesses 7.4, 7.9 and 7.176 on or before 28 October 2001 and the identity of witnesses 7.15, 7.42 and 7.175 on or before 21 November 2001.

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

Dated this 19th day of September 2001,
At The Hague,
The Netherlands.



Judge David Hunt
Pre-Trial Judge

[Seal of the Tribunal]