



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-95-8/1-PT

Date: 13 June 2002

Original: ENGLISH

**IN THE TRIAL CHAMBER**

**Before:** Judge Richard May, Presiding  
Judge Patrick Robinson  
Judge O-Gon Kwon

**Registrar:** Mr. Hans Holthuis

**Order of:** 13 June 2002

**PROSECUTOR**

v.

**DUŠAN FUŠTAR  
PREDRAG BANOVIĆ  
DUŠKO KNEŽEVIĆ**

**ORDER ON PROSECUTION'S MOTION  
FOR PROTECTIVE MEASURES**

**Office of the Prosecutor:**

Ms. Joanna Korner

**Counsel for the Accused:**

Mr. Jovan Babić, for Predrag Banović  
Mr. Theodore Scudder and Mr. Dragan Ivetić, for Dušan Fustar  
Mr. Thomas Moran, for Duško Knežević

**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 the “Prosecution’s Motion for Protective Measures for Victims and Witnesses” filed by the Office of the Prosecutor (“Prosecution”) on 28 May 2002 (“Motion”), seeking orders prohibiting the disclosure of confidential materials by the Defence for the three accused to the public and to the media, and authorising redaction by the Prosecution of the current whereabouts of Prosecution witnesses and other individuals named therein from the material due to be disclosed to the Defence pursuant to Rule 66 (A)(i) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”),

**NOTING** the response of the Defence for the accused, Predrag Banović, filed on 7 June 2002, agreeing with the protective measures sought by the Prosecution,

**NOTING** that the time permitted for the Defence for the accused, Dušan Fuštar and Duško Knežević, to respond to the Motion has now passed and no objection has been raised to the protective measures sought,

**NOTING** however that counsel was only assigned to the accused Duško Knežević on 10 June 2002,

**NOTING** the Order of 13 December 2001 issued by the pre-trial Judge which provides for non-disclosure of this material by counsel for the accused, Predrag Banović,

**NOTING** also that the Prosecution does not seek to delay disclosure of, or redact information as to, the identity of the witnesses and others referred to in the material to be disclosed,

**CONSIDERING** that Article 20 of the Statute of the International Tribunal (“the Statute”) requires the Trial Chambers to ensure that proceedings are conducted with

full respect for the rights of the accused and due regard for the protection of victims and witnesses,

**CONSIDERING** the rights of the accused under Article 21 of the Statute to a fair and public hearing,

**CONSIDERING** that Article 22 of the Statute requires the International Tribunal to provide in its Rules of Procedure and Evidence (“Rules”) for the protection of victims and witnesses,

**CONSIDERING** the provisions of Rules 53 and 75 of the Rules concerning non-disclosure and the protection of witnesses,

**CONSIDERING** that, save as otherwise provided in this Decision, the protection sought is necessary and appropriate to protect the victims and witnesses identified in the supporting material, while still remaining consistent with the rights of the accused,

**CONSIDERING** that it would be in the interests of judicial economy for the same protective measures to apply, as far as practicable, in respect of each of the three accused,

**CONSIDERING** also that disclosure has already been made to the defence for Predrag Banović and Dušan Fustar,

**PURSUANT TO** Articles 20, 21, and 22 of the Statute, and Rules 53 and 75 of the Rules,

**HEREBY GRANTS** the Motion and **ORDERS** as follows:

- (1) the Order of 13 December 2001 is hereby extended to the accused, Dušan Fustar and Duško Knežević, and their counsel and representatives;
- (2) material to be disclosed to the Defence for Duško Knežević which has already been disclosed to the Defence for Predrag Banović and Dušan Fustar shall be disclosed with the same redactions, if any, as were made


when disclosure was made to the Defence for Predrag Banović and Dušan Fustar,

- (3) the Prosecution may, with respect to any future obligations of disclosure to be made to all three accused, arising under Rule 66 (A)(ii), redact from the statements of the witnesses it intends to call to testify at trial:
  - (a) any information which discloses the current whereabouts of the maker of any such document and/or his or her family;
  - (b) any information contained within such documents which discloses the current whereabouts of other individuals named within them who have made witness statements which the Prosecution has already disclosed or which it intends to disclose;
  - (c) any information contained within such documents which discloses the current whereabouts of other individual who are named in such documents, other than those individuals who are described in any document as having been present at any of those events referred to in the documents which are or which may be relevant to the issues in the trial; and
  - (d) the personal identification number given to citizens of the former Yugoslavia which appears on statements taken by the Bosnian authorities;
- (4) subject to further Order, the pre-trial Judge shall determine the appropriate time for disclosure of the redacted information, if any, to the Defence; and
- (5) counsel for the accused, Duško Knežević, may, within fourteen days of assignment, file a response to the Motion raising objections, if any, for further consideration by the Trial Chamber.

For the purposes of this order, the term “public” means and includes all persons, governments, organisations, entities, clients, associations and groups, other than the Judges of the International Tribunal and the staff of the Registry, the Prosecutor, and the Defence. The “public” specifically includes, without limitation, families, friends,

and associates of the accused; the accused in other cases or proceedings before the International Tribunal; the media; and journalists.

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



Richard May  
Presiding

Dated this thirteenth day of June 2002  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**