



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-02-54-T
Date: 28 August 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: 28 August 2002

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**DECISION ON PROSECUTION MOTIONS TO CALL ADDITIONAL WITNESS AND
FOR ORDER FOR PROTECTIVE MEASURES
INCLUDING USE OF VIDEO-CONFERENCE LINK**

The Office of the Prosecutor

Mr. Geoffrey Nice

The Accused

Slobodan Milošević

Amicus Curiae

**Mr. Steven Kay
Mr. Branislav Tapušković
Mr. Michail Wladimiroff**

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 International Tribunal”),

BEING SEISED of a confidential Prosecution motion for leave to call certain witnesses, including a witness designated as ‘K41’, and a confidential and partially *ex parte* “Prosecution’s Motion for Protective Measures for K41” both filed by the Office of the Prosecutor (“Prosecution”) on 21 August 2002, 19 August 2002, together with a confidential “Motion for Testimony with Protective Measures via Video-Conference Link for K41”, filed by the Prosecution on 26 August 2002,

NOTING that provisional arrangements have been made with the Registry to put in place the necessary systems to enable a video-conference link to be set up on Thursday 5 September 2002,

CONSIDERING that the Trial Chamber is satisfied that it is in the interests of justice to permit the Prosecution to call the witness designated as K41,

CONSIDERING that the protective measures sought in respect of the witness to be called are reasonable and should be granted,

CONSIDERING that the Trial Chamber finds that it would be in the interests of justice to grant the application for use of a video-conference link in that the Trial Chamber is satisfied that permitting the Prosecution to present the evidence of this witness by way of video-conference at this stage of the proceedings would contribute both to the conduct of a fair trial and to the expeditious conclusion of the part of the proceedings pertaining to Kosovo,

CONSIDERING that guidelines for the giving of evidence by video-conference link have been laid down in the “Decision on the Defence Motions to Summons and Protect Defence Witnesses, and on the Giving of Evidence by Video-Link”, issued by Trial Chamber II in *Prosecutor v. Duško Tadić*, Case No. IT-94-1, 25 June 1996 (“the Tadić Decision”),

PURSUANT TO Rules 71 *bis*, 73 *bis* and 75 of the Rules,

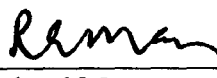
HEREBY ORDERS as follows:

- (1) The Prosecution may call the witness identified as K41;
- (2) The Prosecution may refer to the witness identified as K41 (“the Protected Witness”) by that pseudonym when referring to the Protected Witness in all proceedings before the International Tribunal and in discussions among the parties;
- (3) The Prosecution shall immediately disclose the name and witness statement of the Protected Witness to the *amici curiae* and to the accused in both English and the language of the accused;
- (4) The Prosecution may redact the current whereabouts of the Protected Witness from all material disclosed to the accused and to the *amici curiae*;
- (5) The name and other identifying data of the Protected Witness, including his or her whereabouts, shall not be disclosed to the public;
- (6) All hearings to consider the issue of protective measures for the Protected Witness shall be held in closed session and only released to the public and to the media after review by the Prosecution, in consultation with the Victims and Witnesses Section;
- (7) The testimony of the Protected Witness shall be given by means of facial distortion and may testify through video-conference link on Thursday 5 September 2002 provided that the necessary equipment can be made available to the International Tribunal;
- (8) The public and the media may not photograph, video-record or sketch the Protected Witness while he or she is on the premises of the International Tribunal;
- (9) All material pertaining to the Protected Witness shall be returned to the Registry following the close of this proceeding;
- (10) All provisions of this Decision shall apply equally to the *amici curiae*;
- (11) The name, address, whereabouts of and identifying data concerning the Protected Witness shall be sealed and not included in any public records of the International Tribunal;
- (12) To the extent that the name, address, whereabouts or other identifying data concerning the Protected Witness are contained in existing public documents of the International Tribunal, that information shall be expunged from those documents; and
- (13) Documents of the International Tribunal identifying the Protected Witness shall not be disclosed to the public or the media;

and **DIRECTS** the Registrar to take all reasonable steps in the circumstances of the present case to ensure that the guidelines established in the Tadić Decision are followed.

For the purpose of this decision, “the public” means and includes all persons, governments, organisations, entities, clients, associations and groups, other than the Judges of the International Tribunal, the staff of the Registry, the Prosecutor, and the accused and the *amici curiae*. “The public” also includes, without limitation, families, friends, and associates of the accused; the accused and defence counsel 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 twenty-eighth day of August 2002
At The Hague
The Netherlands

[Seal of the Tribunal]