



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: 23 September 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: 23 September 2002

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**DECISION ON THIRD PROSECUTION MOTION FOR PROTECTIVE MEASURES
FOR SENSITIVE SOURCE WITNESSES TESTIFYING DURING THE
CROATIA PHASE OF THE TRIAL**

The Office of the Prosecutor

**Ms. Carla Del Ponte
Mr. Geoffrey Nice
Mr. Dermot Groome**

The Accused

Slobodan Milošević

Amici Curiae

**Mr. Steven Kay, QC
Mr. Branislav Tapušković
Prof. Mischa 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 (“International Tribunal”),

BEING SEISED of a confidential and *ex parte* “Fourth Prosecution Motion for Protective Measures for Sensitive Source Witnesses Testifying During the Croatia Phase of the Trial ” filed on 19 September 2002 (“the Fourth Motion”), in which the Prosecution seeks the protective measures of image and voice distortion for witness C-037 and for image distortion in respect of witness C-060 (“the two witnesses”), and attaches reasons for the request,

NOTING the confidential “Decision on Prosecution Motion for Protective Measures for Sensitive Source Witnesses Testifying During the Croatia Phase of the Trial ” issued by the Trial Chamber on 17 September 2002 (“the Decision”), in which the Trial Chamber denied the protective measure of closed session testimony for the two witnesses, but stated that it “would not preclude the Prosecution from seeking lesser protective measures on behalf of the two witnesses”,

NOTING that whilst protective measures sought which allow a witness’s testimony to take place in open session, but with methods designed to conceal his identity from the public (such as the use of pseudonym and image distortion), are considered less of an infringement on the public nature of the proceedings than closed session testimony, the Trial Chamber must still consider whether it is appropriate that such measures be granted on the basis of whether the witness’s fears are legitimate and well founded and the right of the accused to a fair and public trial,

CONSIDERING that the Prosecution has satisfied the Trial Chamber that the circumstances of the two witnesses, whilst not establishing a basis for the granting of closed session testimony, do establish a basis upon which the Chamber is willing to grant the protective measures sought in this Motion,

CONSIDERING FURTHER that the measures sought do not infringe upon the accused’s right to a fair and public trial,

PURSUANT TO Rule 75 of the Rules of Procedure and Evidence

HEREBY GRANTS THE MOTION AND ORDERS:

- (1) That witness C-037 will be permitted to testify with image and voice distortion; and
- (2) That witness C-060 will be permitted to testify with image distortion.

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



Richard May
Presiding

Dated this twenty-third day of September 2002
At The Hague
The Netherlands

[Seal of the Tribunal]