



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-94-2-PT  
Date: 8 January 2003  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Wolfgang Schomburg, Presiding  
Judge Florence Ndepele Mwachande Mumba  
Judge Carmel Agius

**Registrar:** Mr. Hans Holthuis

**Decision of:** 8 January 2003

**PROSECUTOR**

v.

**DRAGAN NIKOLIĆ**

**SECOND DECISION ON "PROSECUTION MOTION FOR  
PROTECTIVE MEASURES AND FOR THE SUBMISSION OF A  
CORRIGENDUM TO THE RULE 65TER (E) (i) (ii) (iii) FILING  
OF 3 OCTOBER 2002"**

**The Office of the Prosecutor:**

Mr. Upawansa Yapa

**Counsel for the Accused:**

Mr. Howard Morrison  
Ms. Tanja Radosavljević

**TRIAL CHAMBER II** (“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 (“Tribunal”):

**BEING SEISED OF** the confidential “Prosecution’s Response to Trial Chamber Decision on “Prosecution Motion for Protective Measures and for the Submission of a Corrigendum to the Rule 62ter (E) (i) (ii) (iii) Filing of 3 October 2002””, filed by the Prosecution on 17 December 2002 (“Response”);

**NOTING** the “Prosecution Motion for Protective Measures and for the Submission of a Corrigendum to the Rule 65ter(E) (i) (ii) (iii) Filing of 3 October 2002” confidentially filed by the Prosecution on 1 November 2002 (“Motion”), in which the Prosecution requested the Trial Chamber to

- (i) grant pre-trial protective measures to the witnesses named in paragraph 10 of the Motion, witnesses who had not sought protective measures previously but indicated to the Prosecution that they will ask for protective measures at trial (“Request I”);
- (ii) assign the pseudonyms given in the Annexes A, C, and D of the Prosecution’s Rule 65ter (E) (i) (ii) (iii) filings made on 3 October 2002 to the witnesses named in paragraph 11 of the Motion, witnesses who the Prosecution had been unable to contact to ascertain whether they require protective measures (“Request II”);
- (iii) accept the corrigendum to the Rule 65ter (E) (i) (ii) (iii) filings of the Prosecution made on 3 October 2002, as set out in paragraphs 32-38 of the Motion (“Request III”);

**NOTING** the “Decision on “Prosecution Motion for Protective Measures and for the Submission of a Corrigendum to the Rule 65ter(E) (i) (ii) (iii) Filing of 3 October 2002”” filed on 22 November 2002 (“Decision”), in which the Trial Chamber granted protective measures to the Request I witnesses and decided that

Decisions with respect to [R]equests II and III are delayed until the Prosecution has contacted the relevant witnesses and provided the Trial Chamber with specific justifications for the protective measures required for each of the witnesses, as well as information regarding any further amendments to the Rule 65ter (E) (i)(ii)(iii) filings;

**CONSIDERING** the Prosecution’s Response, in which the Prosecution indicated that two of the three Request II witnesses would not in fact be called to testify and that the third, Hamdija Džamdžić, will not require protective measures;

**CONSIDERING** that, as a result, the Prosecution requests that the Trial Chamber

- (i) allow the Prosecution to replace the pseudonym su-407, which was used in an abundance of caution, in its Rule 65ter (E) (i) (ii) (iii) filings with the name of Prosecution witness Hamdija Džamdžić, as this witness will testify in open session;
- (ii) grant Request III of the Motion, i.e. accept the corrigendum to the Rule 65ter (E) (i) (ii) (iii) filings of the Prosecution made on 3 October 2002 as set out in paragraphs 32-38 of the Motion;
- (iii) consider the grant of protective measures set forth in the Decision as a final order;

**CONSIDERING** that the relief requested is in compliance with Article 20 of the Statute of the Tribunal, which requires a Trial Chamber to ensure that a trial is fair and expeditious and that proceedings are conducted with full respect for the rights of the Accused and due regard for the protection of victims and witnesses;

**RECALLING** that the grant of protective measures to the Request I witnesses in the Trial Chamber's Decision is a final order;

**CONSIDERING FURTHER** that these findings are without prejudice to any future application which may be made by any party or person seeking such other or additional protective measures, as may be viewed appropriate concerning a particular witness or other evidence or a variation of the terms of this Decision, upon good cause being shown;

**FOR THE FOREGOING REASONS**

**PURSUANT TO** Rule 54 and Rule 65ter (E) (i) (ii) (iii) of the Rules;

**HEREBY ORDERS AS FOLLOWS:**

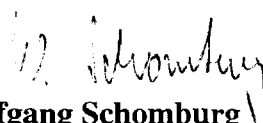
1. The Prosecution is granted leave to incorporate the following amendments into a revised version of the Rule 65ter (E) (i) (ii) (iii) filings originally made on 3 October 2002:
  - (i) amendments as set out in paragraphs 32-38 of the Motion; and
  - (ii) replacing the pseudonym su-407 with the name of Prosecution witness Hamdija Džamdžić.
2. The Prosecution is instructed to file a revised version of the Rule 65ter (E) (i) (ii) (iii) filings of 3 October 2002 as approved by this Decision by not later than Monday, 20 January 2003.

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

Dated this 8<sup>th</sup> day of January 2003,

At The Hague

The Netherlands

  
**Wolfgang Schomburg**

**Presiding Judge**

**[Seal of the Tribunal]**