



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: 7 February 2003

Original: English

IT-94-2-PT
D 4308 - D 4306
07 February 2003

4308

13Q

IN TRIAL CHAMBER II

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

Registrar: Mr. Hans Holthuis

Decision of: 7 February 2003

PROSECUTOR

v.

DRAGAN NIKOLIĆ

**DECISION ON "PROSECUTION WITNESS PROTECTION
MOTION"**

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 Witness Protection Motion”, filed by the Prosecution on 21 January 2003 (“Motion”);

NOTING that the Prosecution requests the Trial Chamber to assign the pseudonyms given in the Prosecution’s Rule 65ter (E) (i) (ii) (iii) filings – Annex A, C, D made on 3 October 2002 (*sic*) to the witnesses named in paragraph 3 of the Motion (“Witnesses”);

NOTING that Counsel for the accused Dragan Nikolić (“Accused”) did not file a Response within the prescribed time-limit;

NOTING that the Motion justifies in detail the assignment of pseudonyms on the basis that the safety of the witnesses and the safety of their family members would be jeopardised if their identities were disclosed to the public;

CONSIDERING the Trial Chamber’s duty to analyse the protective measures sought and determine their compatibility with the rights of the Accused;

CONSIDERING that the Prosecution has disclosed the identity of the Witnesses to the Accused and his Counsel by providing unredacted copies of their statements pursuant to Rule 66 (A) (ii);

CONSIDERING that the Trial Chamber strongly believes that the protective measures to be granted strike an appropriate balance between the rights of the Accused and the duty of the Tribunal to protect victims and witnesses;

RECALLING the general non-disclosure orders vis-à-vis the public and the media issued by this Trial Chamber in its Decision of 22 November 2002, in particular in paragraphs 4 to 7 of the disposition;

FOR THE FOREGOING REASONS

PURSUANT TO Article 20, 21 and 22 of the Statute of the Tribunal and to Rule 75 of the Rules of Procedure and Evidence (“Rules”);

HEREBY ORDERS AS FOLLOWS:

The witnesses in paragraph 3 of the Motion shall be referred to in all public pre-trial proceedings and filings by the pseudonyms set out in that paragraph.

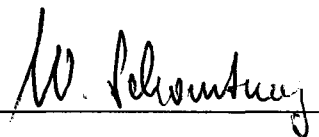
2. The Prosecution is granted leave to redact from all documents subject to disclosure pursuant to Rule 66 (A) (i), Rule 66 (A) (ii) and Rule 68 of the Rules any information concerning the current whereabouts of each witness referred to in paragraph 1 of the disposition of this Decision.
3. Nothing herein shall preclude any party or person from seeking such other or additional protective measures or measures or a variation of the terms of this Decision as may be viewed appropriate concerning a particular witness or other evidence on good cause being shown.

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

Dated this 7th day of February 2003,

At The Hague

The Netherlands



Wolfgang Schomburg

Presiding Judge

[Seal of the Tribunal]