



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-99-36-T
Date: 10 February 2003
Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge Ivana Janu
Judge Chikako Taya

Registrar: Mr. Hans Holthuis

Decision of: 10 February 2003

PROSECUTOR

v.

RADOSLAV BRĐANIN

**DECISION ON PROSECUTION'S FOURTEENTH MOTION
FOR PROTECTIVE MEASURES**

The Office of the Prosecutor:

Ms. Joanna Korner
Mr. Andrew Cayley

Counsel for the Accused:

Mr. John Ackerman
Mr. Milan Trbojević

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 “Prosecution’s Fourteenth Motion for Protective Measures”, filed confidentially under seal by the Prosecution on 24 January 2003 (“Motion”);

NOTING that the Prosecution seeks protective measures for a witness identified in the Motion as BT 80, namely the assignment of a pseudonym and leave to testify in closed session;

NOTING that the Defence informed the Trial Chamber orally that they will not file a response, but that they maintain their opposition to testimony held in closed session;

CONSIDERING the Trial Chamber’s duty to analyse the protective measures sought and determine their compatibility with the rights of the Accused, and the Trial Chamber’s duty to balance the right of the Accused to a public hearing against the need to accord appropriate protection to victims and witnesses;

CONSIDERING that the Prosecution bases the request for protective measures on an objective foundation including safety concerns for the witness and the witness’ family members and protection concerns for the witness’ real property;

CONSIDERING that the Prosecution has demonstrated that it is necessary for BT 80’s testimony to be held in closed session as the substance of the testimony might reveal the identity of the witness and the incriminating nature of the testimony gives rise to fear for retaliation;

CONSIDERING that the protective measures requested strike an appropriate balance between the rights of the Accused and the rights of victims and witnesses;

FOR THE FOREGOING REASONS

PURSUANT TO Article 20, 21 and 22 of the Statute of the Tribunal and to Rule 75 and 79 of the Rules of Procedure and Evidence;

HEREBY ORDERS THAT:

1. The witness identified in the Motion as BT 80 shall be referred to by this pseudonym at all times in the course of his/her testimony or whenever referred to in the course of the proceedings whether during the hearing or in documents, including the transcript of the proceedings;

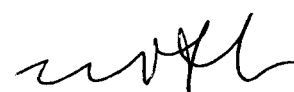
2. The testimony of BT 80 shall be held in closed session;
3. All hearings to consider the issue of protective measures of BT 80 shall be held in closed session, and edited records and transcripts of the said session(s) shall be released to the public after review by the Office of the Prosecutor in consultation with the Victims and Witnesses Section;
4. The name, address, whereabouts of and identifying information for BT 80 shall be sealed and not included in any of the public records of the Tribunal;
5. To the extent the name, address, whereabouts of, or other identifying data concerning BT 80 is contained in existing public documents of the Tribunal, that information shall be expunged from those documents;
6. The testimony of BT 80 shall be sealed and shall not be released to the public or media in any form;
7. The public and the media shall not photograph, video-record, sketch or in any other manner record or reproduce images of BT 80 while he/she is in the precincts of the Tribunal.

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

Dated this 10th day of February 2003,

At The Hague

The Netherlands



Carmel Agius

Presiding Judge

[Seal of the Tribunal]