



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: 20 May 2003
Original: English

IN TRIAL CHAMBER II

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

Registrar: Mr. Hans Holthuis

Decision of: 20 May 2003

PROSECUTOR

v.

RADOSLAV BRĐANIN

**DECISION ON PROSECUTION'S SIXTEENTH MOTION FOR
PROTECTIVE MEASURES FOR VICTIMS AND WITNESSES**

The Office of the Prosecutor:

Ms. Joanna Korner
Mr. Andrew Cayley

Counsel for the Accused:

Mr. John Ackerman
Mr. David Cunningham

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 (“the Tribunal”):

BEING SEISED OF the “Prosecution’s Sixteenth Motion for Protective Measures for Victims and Witnesses” (“Motion”), filed confidentially by the Office of the Prosecutor (“Prosecution”) on 9 May 2003 in which the Prosecution seeks protective measures for one witness, namely BT-64, who is to testify at trial and whose name is identified in the Motion;

NOTING that this witness was listed in the “Prosecution’s Eleventh Motion for Protective Measures for Victims and Witnesses”, filed confidentially on 26 June 2002, as a Rule 92 *bis* witness, but that the Prosecution now intends to call this witness to present evidence orally before the Trial Chamber;

NOTING that the protective measures sought are the assignment of a pseudonym and facial and voice distortion;

NOTING that the Prosecution provides in the Motion as reasons for the request for protective measures the fact that the witness frequently travels to Republika Srpska where the witness has relatives and property, and that to disclose publicly the identity of the witness could threaten his or her security;

NOTING the “Addendum to Prosecution’s Eleventh Motion for Protective Measures for Victims and Witnesses” (“Addendum”), filed confidentially by the Prosecution on 12 September 2002 and related to the security assessment in the Municipalities covered by the Indictment;

NOTING the standing objections of Counsel for Radoslav Brđanin (“Accused”), expressed during the hearings of 1 July 2002¹ and 22 November 2002,² to testimony being heard in closed session;

NOTING that Counsel for the Accused does not object to the assignment of pseudonyms, facial and/or voice distortion;

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;

¹ Trial Transcript (“T”), 7692.

² T 12003.

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

RECALLING that the relevant orders contained in paragraph 65 of the “Decision on Motion by Prosecution for Protective Measures”, issued by the Trial Chamber on 3 July 2000, are not limited by date and continue in force throughout the proceedings or until further order;

FOR THE FOREGOING REASONS

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

HEREBY ORDERS THAT:

1. The witness identified in the Motion as BT 64 shall be referred to by this pseudonym at all times in the course of his or 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 witness identified in the Motion as BT 64 shall testify with the use of screening from the public and the device of facial and voice distortion shall be used in relation to the audio-visual recording and transmission of the testimony of that witness;
3. All hearings to consider the issue of protective measures of this witness 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 of this witness shall be sealed and not included in any of the public records of the International Tribunal;
5. To the extent the name, address, whereabouts of, or other identifying data concerning this witness is contained in existing public documents of the Tribunal, that information shall be expunged from those documents;
6. The public and the media shall not photograph, video-record, sketch or in any other manner record or reproduce images of this witness while he or she is in the precincts of the International Tribunal.

7. Subject to the provisions of Rule 75, transcripts of the evidence presented orally before the Trial Chamber by BT 64 shall be made available for use in other proceedings before the Tribunal.

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

Dated this twentieth day of May 2003,

At The Hague

The Netherlands



Carmel Agius

Presiding Judge

[Seal of the Tribunal]