



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-05-87-PT

Date: 27 June 2006

Original: English

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**IN TRIAL CHAMBER III**

**Before:** Judge Iain Bonomy, Presiding  
Judge Krister Thelin  
Judge Frank Höpfel

**Registrar:** Mr. Hans Holthuis

**Decision of:** 27 June 2006

**PROSECUTOR**

v.

**MILAN MILUTINOVIĆ  
NIKOLA ŠAINOVIĆ  
DRAGOLJUB OJDANIĆ  
NEBOJŠA PAVKOVIĆ  
VLADIMIR LAZAREVIĆ  
SRETEN LUKIĆ**

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**DECISION ON PROSECUTION MOTION FOR RECONSIDERATION OF  
DECISION ON SIXTH MOTION FOR PROTECTIVE MEASURES**

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**Office of the Prosecutor**

Mr. Thomas Hannis  
Mr. Chester Stamp  
Ms. Christina Moeller  
Ms. Patricia Fikirini  
Mr. Mathias Marcussen

**Counsel for the Accused**

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Mr. Milan Milutinović  
Mr. Toma Fila and Mr. Vladimir Petrović for Mr. Nikola Šainović  
Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Mr. Dragoljub Ojdanić  
Mr. John Ackerman and Mr. Aleksander Alekšić for Mr. Nebojša Pavković  
Mr. Mihajlo Bakrač for Mr. Vladimir Lazarević  
Mr. Branko Lukić and Mr. Dragan Ivetić for Mr. Sreten Lukić

**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 (“Tribunal”) is seised of a confidential with confidential and *ex parte* annex “Prosecution’s Motion for Reconsideration of Decision on Prosecution Sixth Motion for Protective Measures”, filed 21 June 2006 (“Motion”), and hereby renders its decision thereon.

1. The Motion requests the Trial Chamber to reconsider its “Decision on Prosecution Sixth Motion for Protective Measures”, filed 1 June 2006 (“Decision”), denying the Prosecution’s request for certain protective measures for witness K-71, without prejudice to the Prosecution making a further application in respect thereof.<sup>1</sup> Although the Prosecution styled the Motion as one for reconsideration, the Chamber will construe it as a fresh motion based on a change of circumstances.

2. The Chamber notes that, in the initial briefing upon which the Chamber based its Decision, the Accused did not oppose the protective measures requested in respect of this witness.<sup>2</sup>

3. The Chamber is satisfied that the Prosecution has demonstrated the existence of a real risk to the safety and security of the witness should it become publicly known that he/she has testified before the Tribunal in the instant proceedings and therefore considers the use of a pseudonym and attendant protective measures as necessary and appropriate.

4. Pursuant to Rules 54, 75, and 79 of the Rules of Procedure and Evidence, the Chamber hereby GRANTS the Motion and ORDERS as follows:

- a. The witness shall be identified by the following pseudonym in all proceedings before the Tribunal and in discussions among the parties: K-71.
- b. The name and other identifying data relating to this witness shall not be disclosed to the public, the Accused, and their respective Defence Counsel. To the extent the witness’s identity and whereabouts are known to any or all of the Accused and/or Defence Counsel,

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<sup>1</sup> Decision, para. 28(b).

<sup>2</sup> See Mr. Milutinović’s Response to the Prosecution’s Sixth Motion for Protective Measures with Confidential and *Ex Parte* Annex A, 24 April 2006; Joint Defence Motion: Joining “Mr. Milutinović’s Response to the Prosecution’s Sixth Motion for Protective Measures with Confidential and *Ex Parte* Annex A”, 24 April 2006 (Šainović and Lazarević). Although the Chamber did not consider these responses due to their lack of compliance with Rule 127(A), the Chamber considers that the decision of the Accused not to oppose the protective measures for K-71 can be relied upon by the Chamber as an indication of their positions in the present matter. In the event that the Accused wish to oppose the Motion, they may apply to have the instant decision set aside no later than 3 July 2006.

his/her identity and whereabouts shall not be disclosed to the public by any of the Accused or their respective representatives.

- c. All materials pertaining to this witness shall be returned to the Registry following the close of the proceedings.
- d. All hearings to consider the issue of protective measures for this witness shall be held in closed session and transcripts will only be released to the public and to the media after review by the Prosecution, in consultation with the Victims and Witnesses Section.
- e. Representatives of the public and/or the media shall not photograph, video-record, or sketch the witnesses while they are on the premises of the Tribunal.
- f. The name, address, whereabouts of, and identifying data concerning this witness shall be sealed and not included in any public record of the Tribunal.
- g. Documents of the Tribunal identifying the witness shall not be disclosed to the public or media.

For the purpose of this decision, “the public” means and includes all persons, governments, organisations, entities, clients, associations, and groups, other than the Judges of the Tribunal and the staff of the Registry, the Office of the Prosecutor, the Accused in this case, the Defence Counsel and their legal assistants, agents or representatives and any other members of the Defence teams. “The public” also includes, without limitation, family, friends, and associates of the Accused, accused in other cases or proceedings before the Tribunal; defence counsel in other cases or proceedings before the Tribunal, and the media and journalists.

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

Judge Iain Bony  
Presiding

Dated this twenty-seventh day of June 2006  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**