



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-T

Date: 11 July 2006

Original: English

IN TRIAL CHAMBER III

Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetlana Kamenova

Registrar: Mr. Hans Holthuis

Decision of : 11 July 2006

PROSECUTOR

v.

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

DECISION ON PROSECUTION SEVENTH MOTION ON PROTECTIVE MEASURES

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 Milan Milutinović
Mr. Toma Fila and Mr. Vladimir Petrović for Nikola Šainović
Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksander Aleksić for Nebojša Pavković
Mr. Mihajlo Bakrač for Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for 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”) was seised of a “Prosecution’s Seventh Motion for Protective Measures with Confidential and *Ex Parte* Annex A”, filed 28 June 2006 (“Motion”), seeking protective measures for three “sensitive” witnesses, namely the use of pseudonyms in lieu of the witnesses’ true identities, delayed disclosure of the unredacted statements, and permission to redact from those witnesses’ statements when disclosed any reference to the particular piece of information detailed in Annex A.¹

1. At the pre-trial conference held on 7 July 2006, the Trial Chamber inquired whether the Defence for the Accused objected to the addition of the two witnesses referred to in Annex A that had not yet been included on the latest witness list, and none of the Defence objected. The Trial Chamber therefore issued an oral ruling allowing the addition of these two witnesses to the witness list.²

2. The Trial Chamber further inquired at the pre-trial conference whether the Defence for the Accused objected to the imposition of the protective measures, and none of the Defence raised any objections. The Trial Chamber therefore issued an oral ruling granting the protective measures to the three “sensitive” witnesses as requested in the Motion.³

3. Pursuant to Articles 20, 21, and 22 of the Statute and Rules 54, 69, and 75 of the Rules of Procedure and Evidence, the Trial Chamber **HEREBY CONFIRMS** its oral ruling and **ORDERS** as follows:

- (a) The three witnesses shall be identified by the pseudonyms K77, K78, and K79 as described in Annex A in all proceedings before the Tribunal and in discussions among the parties.
- (b) The names and other identifying data relating to these witnesses shall not be disclosed to the public, the Accused, and their respective Defence Counsel. To the extent the witnesses’ identities and whereabouts are known to any or all of the Accused and/or Defence Counsel, their identities and whereabouts shall not be disclosed to the public by any of the Accused or their respective representatives.

¹ Motion, para. 2.

² Pre-trial conference, T. 58 (7 July 2006).

- (c) All materials pertaining to these witnesses shall be returned to the Registry following the close of the proceedings.
- (d) The Prosecution shall be granted permission to provide redacted statements of the three witnesses for whom delayed disclosure is requested, redacting, in particular, the witnesses' names, current whereabouts and dates of birth; and any information which may reveal the witnesses' identities.
- (e) The Prosecution shall provide to the Accused, by no later than 31 July 2006, the true identities and unredacted statements of the witnesses.
- (f) Defence Counsel and their representatives and agents who are acting pursuant to their instructions or requests shall notify the Prosecution of any requested contact with any of the Prosecution witnesses referred to herein, in order to enable the Prosecution to make the necessary arrangements for such contact, in the event the witnesses agree to contact with Defence Counsel.
- (g) All hearings to consider the issue of protective measures for the witnesses shall be held in closed session and transcripts only be released to the public and to the media after review by the Prosecution, in consultation with the Victims and Witnesses Section.
- (h) 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.
- (i) The names, addresses, whereabouts of, and identifying data concerning the witnesses shall be sealed and not included in any public record of the Tribunal.
- (j) Documents of the Tribunal identifying the witnesses shall not be disclosed to the public or media.
- (k) 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

³ Pre-trial conference, T. 58 (7 July 2006).

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 eleventh day of July 2006
At The Hague
The Netherlands

[Seal of the Tribunal]