



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: 10 August 2006
Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Order of: 10 August 2006

PROSECUTOR

v.

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

ORDER ON PROSECUTION'S EIGHTH MOTION FOR 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 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 Aleksić for Mr. Nebojša Pavković
Mr. Mihajlo Bakrač and Mr. Đuro Čepić 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”);

BEING SEIZED OF the “Prosecution’s Eighth Motion for Protective Measures with Confidential and *ex parte* Annex A”, filed on 28 July 2006 (“Motion”), which seeks certain specific protective measures for three witnesses identified in *ex parte* Annex A;

NOTING that one of the witnesses identified in Annex A is also the subject of a separate motion filed by the Office of the Prosecutor (“Prosecution”) on 14 July 2006,¹ and that all protective measures requested in connection with this witness will therefore be dealt with in the Trial Chamber’s decision on the motion of 14 July 2006;

NOTING that, although it is clear that the Prosecution has already disclosed unredacted statements of all three witnesses to the Accused in compliance with previous orders of the Trial Chamber,² the Motion nonetheless seeks an order that the “names and other identifying data relating to these witnesses not be disclosed to ... the Accused and their respective Defence Counsel”;³

NOTING WITH CONCERN that, while the Prosecution asserts that two of the unredacted statements thus provided to the Accused have been disclosed under the new pseudonyms that are sought by the present Motion,⁴ it is unclear to the Chamber (a) whether any attempt was made to identify the unredacted statements by both the previous pseudonym and the new proposed pseudonym, so as to enable the Defence to cross-reference the material with the witness list provided pursuant to Rule 65 *ter*, and (b) why the Prosecution chose to disclose these statements using pseudonyms that had not been granted by the Trial Chamber;

CONSIDERING NEVERTHELESS that the Prosecution, as the moving party, has satisfied its burden of demonstrating that the protective measures should be granted;

¹ See Motion, Annex A, pp. 4–5; *Prosecutor v. Milutinović, Šainović, Ojdanić, Pavković, Lazarević, and Lukić*, Case No. IT-05-87-T, Prosecution Motion for Testimony to be Heard via Video-Link Conference and for Additional Protective Measures with *ex parte* Annex A, 14 July 2006.

² See Motion, Annex A, pp. 2, 3, 5.

³ Motion, para. 3(b).

⁴ Motion, Annex A, pp. 2, 5. The Chamber interprets unredacted disclosure “under” a particular pseudonym to mean that the statement is disclosed in unredacted form, and accompanied by information that identifies the named witness as being also known by the particular pseudonym.

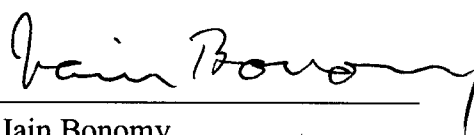
PURSUANT TO Rules 53, 54, 68, and 70 of the Rules;

HEREBY ORDERS AS FOLLOWS:

1. The first two witnesses described in Annex A shall be identified by the pseudonyms K80 and K81 in all proceedings before the Tribunal and in discussions among the parties. The Prosecution shall inform the Accused and their Defence teams of the previous pseudonyms by which these witnesses were known, but those pseudonyms shall not be used in any further proceedings before the Tribunal.
2. The names and other identifying data relating to these witnesses shall not be disclosed to the public. 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.
3. All materials pertaining to these witnesses shall be returned to the Registry following the close of the proceedings.
4. 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.
5. 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.
6. 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.
7. The names, addresses, whereabouts of, and identifying data concerning the witnesses shall be sealed and not included in any public record of the Tribunal.
8. Documents of the Tribunal identifying the witnesses shall not be disclosed to the public or the media.

9. 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.



Iain Bomy
Presiding

Dated this tenth day of August 2006
At The Hague
The Netherlands

[Seal of the Tribunal]