



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: 8 September 2006

Original: English

**IN THE TRIAL CHAMBER**

**Before:** Judge Iain Bonomy, Presiding  
Judge Ali Nawaz Chowhan  
Judge Tsvetana Kamenova  
Judge Janet Nosworthy, Reserve Judge

**Registrar:** Mr. Hans Holthuis

**Decision of:** 8 September 2006

**PROSECUTOR**

v.

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

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**DECISION ON PROSECUTION MOTION FOR LEAVE TO CALL  
WITNESS K54 AND 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 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”) is seised of the “Prosecution’s Motion for Leave to Call Witness K54 and for Protective Measures With Confidential Annex A”, filed confidentially on 22 August 2006 (“Motion” and “Annex A”), which requests that the Trial Chamber grant leave to the Prosecution to amend its revised Rule 65 *ter* witness list filed on 6 July 2006, specifically, to call witness K54 during the Prosecution case-in-chief and to allow the witness to testify with pseudonym and image distortion pursuant to Article 20(1) of the Statute of the Tribunal (“Statute”) and Rules 73, 73 *bis* (E), 75, and 89(C) of the Rules of Procedure and Evidence (“Rules”).<sup>1</sup>

1. In their “Joint Defence Response to Prosecution’s Motion for Leave to Call Witness K54 and for Protective Measures with Confidential Annex A”, filed on 5 September 2006 (“Response”), the Defence do not oppose the Prosecution request to call witness K54 as a witness at trial, but do request that the Trial Chamber order the Prosecution to immediately disclose all statements, documentation, and other materials and that this disclosure be forthcoming prior to the witness K54’s testimony. The Defence further request “the Trial Chamber to order that the Prosecution not be allowed to call witness K54 until the Accused have had adequate time to review all disclosure materials, to conduct necessary investigation and to prepare for cross-examination.”<sup>2</sup>

2. The Trial Chamber considers that the Prosecution has demonstrated, in the Motion and its Annex A, the existence of particular circumstances of the protected witness warranting the protective measures and thereby has satisfied its burden of demonstrating that the protective measures should be granted. The Trial Chamber notes that witness K54 was granted the use of pseudonym by the Trial Chamber on 17 July 2003 and that, pursuant to Rule 66(A)(ii), the Prosecution has already disclosed his witness statement to the Defence on 22 August 2006. The Trial Chamber considers that the Prosecution assertion that it “will not seek to call K54 to testify during the initial part of the presentation of its evidence in order to allow the Defence ample time to review his statement, to conduct any necessary investigation and prepare for cross-examination” satisfies the Defence further request.

3. For these reasons, pursuant to Rules 54, 65 *ter*, 73 *bis* (F), and 75, the Trial Chamber **HEREBY ORDERS** as follows:

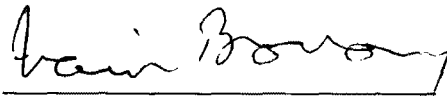
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<sup>1</sup> Motion, paras. 1, 22.

<sup>2</sup> Response, paras. 1–2.

- (a.) The Prosecution is granted leave to amend its revised Rule 65 *ter* witness list, filed on 6 July 2006, and to call the witness K54 during its case-in-chief.
- (b.) The witness shall continue to be identified by the pseudonym K54 in all proceedings before the Tribunal and in discussions among the parties.
- (c.) The testimony of the witness K54 shall be given by means of image distortion.
- (d.) The Registrar is directed to make all the necessary arrangements to ensure that this protective measure is in place for the testimony of this witness.

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



Judge Iain Bonomy  
Presiding

Dated this eighth day of September 2006  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**