



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: 7 December 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

Order of: 7 December 2006

PROSECUTOR

v.

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

**ORDER ON RESCISSION OF PROTECTIVE MEASURES
IN RELATION TO WITNESS LJUBINKO CVETIĆ**

Office of the Prosecutor

Mr. Thomas Hannis
Mr. Chester Stamp

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. Aleksandar 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”), was seised of the Prosecution’s oral application, which was made during the hearing held on 6 December 2006 (“Motion”), for the rescission of the protective measures granted to witness Ljubinko Cvetić.

1. The Prosecution informed the Chamber that the protective measures that had been granted to this witness pursuant to the “Decision on Prosecution’s Motion for Protective Measures of the Trial Chamber”, dated 27 July 2004 (“Decision”),¹ and to the “Decision on Prosecution Motion for Trial-related Protective Measures for K64”, dated 1 December 2006 (“Second Decision”),² were no longer necessary and, therefore, should be withdrawn. There was no objection on the part of the Defence to the Motion.

2. The Chamber considers that it “has the inherent authority to modify orders made previously in the proceedings, including orders made pursuant to Rule 75(A) of the Rules ... provided that the party [that had requested the protective measures] has demonstrated a legitimate purpose for the variation”.³ The Chamber recalls that it orally granted the Motion during the hearing. In the circumstances of this case, the fact that the witness no longer desires to testify with the protective measures and the fact that the Tribunal favours transparency in its proceedings⁴ constituted a legitimate purpose for rescission of the protective measures for this witness.

3. Pursuant to Rules 54 and 75, the Chamber hereby CONFIRMS its oral ruling, RESCINDS the protective measures granted to this witness in the Decision and the Second Decision, and INSTRUCTS the Registry to take all necessary measures to implement this Order.

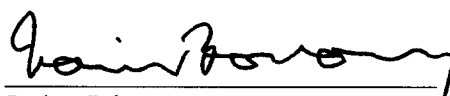
¹ *Prosecutor v. Milutinović, Ojdanić, and Šainović*, Case No. IT-99-37-PT, Decision on Prosecution’s Motion for Protective Measures, 27 July 2004.

² *Prosecutor v. Milutinović, Šainović, Ojdanić, Pavković, Lazarević, and Lukić*, Case No. IT-05-87-PT, Decision on Prosecution Motion for Trial-Related Protective Measures for K64, 1 December 2006.

³ *Prosecutor v. Milošević*, Case No. IT-02-54-T, *ex parte* Decision on Prosecution Application for Variation of Protective Measures, 18 May 2005, para. 6.

⁴ *See, e.g.*, Statute of the Tribunal, Article 20(4) (“The hearings shall be public unless the Trial Chamber decides to close the proceedings in accordance with its rules of procedure and evidence.”); Rule 78 (“All proceedings before a Trial Chamber, other than deliberations of the Chamber, shall be held in public, unless otherwise provided.”).

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



Judge Iain Bonomy
Presiding

Dated this seventh day of December 2006
At The Hague
The Netherlands

[Seal of the Tribunal]