



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-98-32/1-T

Date: 11 July 2008

Original: English

IT-98-32/1-T
D 2503 - D 2501
11 July 2008

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IN TRIAL CHAMBER III

Before: Judge Patrick Robinson, Presiding
Judge Christine van den Wyngaert
Judge Pedro David

Registrar: Mr. Hans Holthuis

Decision of: 11 July 2008

PROSECUTOR

v.

**MILAN LUKIĆ
AND
SREDOJE LUKIC**

PUBLIC

**DECISION ON CONFIDENTIAL PROSECUTION SIXTH
MOTION FOR PROTECTIVE MEASURES IN
RELATION TO WITNESS VG-081**

The Office of the Prosecutor

Mr. Dermot Groome
Mr. Frédéric Ossogo
Ms. Laurie Sartorio
Mr. Stevan Cole
Ms. Francesca Mazzocco

Counsel for the Accused

Mr. Jason Alarid for Milan Lukić
Mr. Đuro Čepić and Mr. Jens Dieckmann for Sredoje Lukić

TRIAL CHAMBER III (“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 SEISED of the “Prosecution’s Clarification of Existing Protective Measures and Sixth Motion for Protective Measures” filed confidentially on 27 June 2008 (“Motion”), requesting, *inter alia*, the removal of all protective measures ordered for Witness VG-081

NOTING that the time for responses pursuant to Rule 126 *bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”) has not yet elapsed but that the defence for both accused have advised the Trial Chamber during the pre-trial conference held on 9 July 2008 that they do not intend to respond to the Motion and have no objection to the relief sought therein,

NOTING Article 20, paragraph 1, of the Statute of the Tribunal (“Statute”) which provides that the Trial Chamber shall guarantee the rights of the accused and ensure the protection of victims and witnesses, while Article 21, paragraph 2, guarantees a public trial to all accused, subject to the dispositions of Article 22 of the Statute concerning the protection of victims and witnesses,

NOTING that Rule 75 (A) of the Rules allows the Trial Chamber to “order appropriate measures for the privacy and protection of victims and witnesses, provided that the measures are consistent with the rights of the accused”,

NOTING further that Rule 75 (F)(i) provides that “[o]nce protective measures have been ordered in respect of a victim or witness in any proceedings before the Tribunal (the “first proceedings”), such protective measures: i) shall continue to have effect *mutatis mutandis* in any other proceedings before the Tribunal (“second proceedings”) unless and until they are rescinded, varied or augmented in accordance with the procedure set out in this Rule; but ii) shall not prevent the Prosecutor from discharging any disclosure obligation under the Rules in the second proceedings, provided that the Prosecutor notifies the Defence to whom the disclosure is being made of the nature of the protective measures ordered in the first proceedings”,

NOTING that the “Order on Protective Measures for Witnesses at Trial” issued by Trial Chamber II on 24 July 2001 in the case of *Prosecution v. Mitar Vasiljević* provides for the use of a pseudonym for Witness VG-081 plus the use of screening and facial distortion in the course of giving testimony,

NOTING that the Prosecution does not now intend to call Witness VG-081 and in the Motion confirms that Witness VG-081 no longer requires protective measures,

NOTING the confirmation provided by the Victims and Witnesses Section of the Tribunal to the Trial Chamber pursuant to Rule 75 (J) that this witness has consented to the rescission of the protective measures,

CONSIDERING the reasons stated in the Motion in support thereof,

CONSIDERING that counsel for the defence of the two accused neither filed a response to the Motions nor raised any objection to the relief sought in the Motion,

CONSIDERING the consent of Witness VG-081 to the rescission of the protective measures,

PURSUANT to Article 20, paragraph 1, and Article 22 of the Statute of the Tribunal and Rule 75 (A) and (K) of the Rules,

HEREBY GRANTS the Motion insofar as it relates to Witness VG-081 and remains seised of the remainder of the Motion.

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



Judge Patrick Robinson
Presiding

Dated this eleventh day of July 2008

At The Hague

The Netherlands

[Seal of the Tribunal]