



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-95-5/18-T
Date: 29 October 2009
Original: English

IN THE TRIAL CHAMBER III

Before: Judge O-Gon Kwon, Presiding Judge
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Decision of: 29 October 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON PROSECUTION'S MOTION FOR RESCISSION OF PROTECTIVE
MEASURES (KDZ546)**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

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 seized of the “Prosecution’s Motion for Rescission of Protective Measures (KDZ546)”, filed confidentially on 21 October 2009 (“Motion”), and hereby renders its decision thereon.

1. KDZ546, who is listed on the Rule 65 *ter* witness list filed by the Office of the Prosecutor (“Prosecution”) on 18 May 2009, was granted a number of protective measures by the Trial Chamber in *Prosecutor v. Krstić*.¹ In the Motion, the Prosecution states that it has recently contacted the witness who stated that he no longer requires the protective measures. For this reason, and because there is no longer a Chamber seized of the *Krstić* case, the Prosecution submitted the present Motion seeking to rescind KDZ546’s protective measures.² The Accused has not yet filed a response to the Motion but has repeatedly requested that all protective measures should be rescinded, except where necessary to protect victims.³

2. Rule 75(G) of the Tribunal’s Rules of Procedure and Evidence (“Rules”) requires that a party to proceedings seeking to rescind protective measures granted to a witness in earlier proceedings must apply to any Chamber remaining seized of the proceedings wherein the measures were originally granted.⁴ However, because there is no Chamber currently seized of the *Krstić* case, the Prosecution properly applied to this Chamber for the rescission of KDZ546’s protective measures under Rule 75(G)(ii).⁵

3. Before determining an application under Rule 75(G)(ii), Rule 75(I) requires the Chamber to obtain all relevant information from the first proceedings, and to consult with any Judge who ordered the protective measures in those proceedings, if that Judge remains a Judge of the Tribunal. The Chamber notes, however, that none of the Judges who granted protective measures to KDZ546 in the *Krstić* case remain at the Tribunal.

4. In addition, Rule 75(J) requires that the Chamber ensure, through the Registry’s Victims and Witnesses Section (“VWS”), that the witness has given consent to the rescission of the relevant

¹ *Prosecutor v. Krstić*, Case No. IT-98-33-T, T. 830 (20 March 2000).

² Motion, paras. 2 and 3.

³ See, e.g. Status Conference, T. 413 (20 August 2009) (“I appeal that all measures, protective measures, be rescinded except in cases of witnesses that have precisely asked to be protected”).

⁴ Rule 75(G)(i)

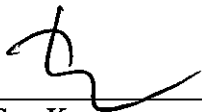
⁵ Rule 75(G)(ii) provides that “[a] party to the second proceeding seeking to rescind, vary, or augment protective measures ordered in the first proceedings must apply: . . . (ii) if no Chamber remains seized of the first proceedings, to the Chamber seized of the second proceedings.”

protective measures. Upon the request of the Chamber, the VWS has contacted KDZ546, who has confirmed that he consents to the rescission of his protective measures.

5. Taking into account the position taken by the witness himself, the Chamber is satisfied that rescission of all protective measures granted to KDZ546 in the *Krstić* case is appropriate.

6. Accordingly, the Trial Chamber, pursuant to Rules 54 and 75 of the Rules, hereby **GRANTS** the Motion, and **RESCINDS** the protective measures granted to KDZ546 in the *Krstić* case.

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



Judge O-Gon Kwon
Presiding

Dated this twenty-ninth day of October 2009
At The Hague
The Netherlands

[Seal of the Tribunal]