



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: 9 October 2012

Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. John Hocking

Order of: 9 October 2012

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**ADDENDUM TO ORDER IN RELATION TO ACCUSED'S NOTICE OF REQUEST OF
PROTECTIVE MEASURES FOR WITNESSES ISSUED ON 8 OCTOBER 2012**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Standby Counsel

Mr. Richard Harvey

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”);

NOTING the “Order in Relation to Accused’s Notice of Request of Protective Measures for Witnesses” issued on 2 October 2012 (“Order”), in which the Chamber instructed the Accused to file “timely and substantiated motions” requesting protective measures for the witnesses on his Rule 65 *ter* witness list who he is aware wishes to request protective measures, sufficiently in advance to allow the Prosecution to respond and the Chamber to issue a decision on the said requests prior to the witness’s testimony;¹

NOTING that, on the same day and following the issuance of the Order, the Accused’s legal adviser asked the Chamber, *via* email, for clarification as to the form in which the “substantiated motions” referred to in the Order should be submitted, stating that in his view the Order does not mandate the filing of “motions” for protective measures in cases where the Accused does not support such requests, and noting that the Accused will continue to file “notices” rather than “motions when he does not “desire the protective measures” for his witnesses;

NOTING that the clarification sought by the Accused’s legal adviser triggered concerns from the Chamber which it deemed appropriate to address as soon as possible on the record to prevent any potential delays in requests for protective measures and avoid the problems created thereby;

NOTING first that having had the experience of the Prosecution’s case during the course of which numerous requests for protective measures were filed by the Prosecution on behalf of its witnesses, the Accused and his legal team should, by now, know the correct procedure for requesting protective measures;

NOTING that it is within the duty of the calling party to adequately inform its prospective witnesses of the correct procedure for requesting protective measures and of the fact that failure by the calling party or the witness to provide sufficient information supporting the request will result in a denial of that request;

NOTING Rule 75(A) of the Tribunal’s Rules of Procedure and Evidence pursuant to which “[a] Judge or a Chamber may, *proprio motu* or at the request of either party, or the victim or witness

¹ Order, p. 3.

concerned, or of the Victims and Witnesses Section, order appropriate measures for the privacy and protection of victims and witnesses”;

RECALLING the Chamber’s view in the Order that timely and substantiated written requests for protective measures are essential to ensure the expeditious conduct of trial and the ability of the Chamber to issue an informed decision on the request ahead of the witness’s testimony;²

CONSIDERING however that witnesses may not file written requests for protective measures themselves prior to appearing before the Chamber for their testimony as they are not a party to these proceedings;

CONSIDERING further that it is important for the Tribunal’s Registry that the protected status of witnesses is known before their testimony and that waiting for the beginning of testimony to decide on a request for protective measures creates a high emotional burden on the witnesses;

HEREBY REITERATES its Order that substantiated and timely written submissions should be filed by the Accused to allow the Chamber to rule on the said requests for protective measures ahead of the witness’s testimony but does not take issue with the manner in which the Accused titles his requests for protective measures.

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



Judge O-Gon Kwon
Presiding

Dated this ninth day of October 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

² Order, p. 3.