



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-08-91-T
Date: 12 October 2010
Original: English

IN TRIAL CHAMBER II

Before: Judge Burton Hall, Presiding
Judge Guy Delvoie
Judge Frederik Harhoff

Registrar: Mr. John Hocking

Decision of: 12 October 2010

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC WITH CONFIDENTIAL ANNEX

**DECISION GRANTING PROSECUTION'S FIFTEENTH
MOTION FOR PROTECTIVE MEASURES FOR 13
WITNESSES**

The Office of the Prosecutor

Ms. Joanna Korner
Mr. Thomas Hannis

Counsel for the Accused

Mr. Slobodan Zečević and Mr. Slobodan Cvijetić for Mićo Stanišić
Mr. Dragan Krgović and Mr. Igor Pantelić for Stojan Župljanin

TRIAL CHAMBER II (“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 “Prosecution’s fifteenth motion providing notification of protective measures applying to witnesses and victims”, filed confidentially on 28 September 2010 (“Motion”), whereby the Prosecution notifies the Trial Chamber of protective measures granted to 13 witnesses—ST008, ST017, ST020, ST024, ST026, ST065, ST225, ST228, ST232, ST241, ST244, ST249 and ST251— by the pre-trial Chamber in this case before the joinder of Stojan Župljanin and other Chambers (“13 witnesses”), and requests the granting of additional protective measures for ST241;¹

NOTING that the Trial Chamber ordered expedited responses by 5 October 2010;²

NOTING that the Defence of Mićo Stanišić did not respond within the time limit granted and the Defence of Stojan Župljanin (“Defence”) stated orally that it takes no position on the Motion;³

NOTING that the Prosecution submits that the protective measures granted to the 13 witnesses in a number of previous proceedings “remain in force”;⁴

NOTING that the Prosecution requests that pseudonyms, including new ones, be assigned to the 13 witnesses;⁵

NOTING that the Prosecution specifically requests that additional protective measures of image and voice distortion be granted to ST241 whose evidence had previously been admitted with pseudonym and under seal, pursuant to Rule 92 *bis*, but who is expected to testify *viva voce* in the current proceedings;⁶

NOTING that with regard to ST26 and ST232, subject of a pending Prosecution motion to admit their evidence pursuant to Rule 92 *quater*,⁷ the Prosecution requests that the use of pseudonym and an order prohibiting the publication of any identifying information will suffice to address the aim of the original protective measures, as they are still required;⁸

¹ Motion, paras 3-15. See confidential annex.

² Oral Ruling, 1 Oct 2010, T. 15148.

³ Oral Response, 5 Oct 2010, T. 15389-15390.

⁴ Motion, paras 3-15.

⁵ *Ibid.*

⁶ *Id.*, para. 12.

NOTING the oral decisions with regard to ST251 and ST017, rendered on 8 October 2010⁹ and 11 October 2010¹⁰ respectively, granting the former pseudonym and image distortion, and the latter pseudonym and closed session;

CONSIDERING that pursuant to Article 22 of the Statute, the Tribunal shall provide for the protection of victims and witnesses through measures which protect their identity;

CONSIDERING that pursuant to Rule 75(A) of the Rules of Procedure and Evidence (“Rules”), the Trial Chamber may order appropriate measures for the privacy and protection of victims and witnesses provided that the measures are consistent with the rights of the accused;

CONSIDERING that in accordance with Rule 75(F)(i), the Trial Chamber shall continue to apply *mutatis mutandis* the protective measures granted to a witness in a previous proceeding before the Tribunal, until they are specifically rescinded, varied or augmented;

CONSIDERING that in the absence of any request to vary the protective measures already granted to the 13 witnesses, there is no reason for this Trial Chamber to vary the protective measures already granted;

CONSIDERING that the testimony of ST241 was admitted pursuant to Rule 92 *bis* in previous proceedings but is to testify *viva voce* in the current proceedings, the additional protective measures of image and voice distortion are justified to uphold the protective measures currently in place;

CONSIDERING that it is more appropriate to rule on the protective measures suitable to ST026 and ST232 when deciding the Rule 92 *quater* Motion relevant to them;

PURSUANT TO Articles 21 and 22 of the Statute and Rules 54, 69 and 75;

HEREBY GRANTS the Motion in part;

⁷ Prosecution’s Motion for admission of evidence pursuant to Rule 92 *quater* with confidential annexes A, B and C, 20 September 2010 (“Rule 92 *quater* Motion”).

⁸ Motion, paras. 17-18.

⁹ Oral decision, 8 Oct 2010, T. 15673.

¹⁰ Oral decision, 11 Oct 2010, T. 9 (livenote).

AFFIRMS that the following protective measures, granted in previous proceedings as set forth below, shall apply to the following witnesses:

ST008: Pseudonym and image and voice distortion;

ST020: Pseudonym and closed session;

ST024: Pseudonym and closed session;

ST065: Pseudonym;

ST225: Pseudonym and closed session;

ST228: Pseudonym and closed session;

ST244: Pseudonym and image distortion; and

ST249: Pseudonym and image distortion;

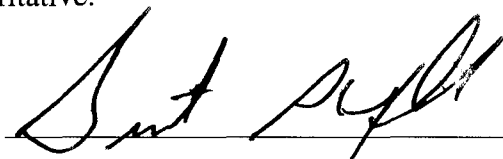
AFFIRMS the oral decisions with regard to ST251 and ST017;

ORDERS the following:

1. ST241 shall be granted the additional protective measures of image and voice distortion;
2. The witnesses shall be given pseudonyms as indicated in the confidential Annex of this Decision, which shall be used whenever referring to the witnesses at trial and in related proceedings before the Tribunal and in discussions among parties;
3. The name, address, whereabouts of and identifying information concerning each of the witnesses identified in the confidential Annex of this Decision shall be sealed and not included in any public records of the Tribunal;
4. To the extent that the name, address, whereabouts or other identifying data of the witnesses identified in the confidential Annex of this Decision is contained in existing public records of the Tribunal, that information shall be expunged from those documents; and
5. The public and the media may not photograph, video-record or sketch or in any manner record or reproduce images of the witnesses identified in the confidential Annex of this Decision while they are in the precincts of the Tribunal

REMAINS SEISED of the Motion in respect of ST026 and ST232.

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



Judge Burton Hall
Presiding

Dated this twelfth day of October 2010

At The Hague

The Netherlands

[Seal of the Tribunal]