



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-98-34-PT

Date 2 August 2001

Original: English

IN THE TRIAL CHAMBER

Before: Judge Almiro Rodrigues, Presiding
Judge Fouad Riad
Judge Patricia Wald

Registrar: Mr. Hans Holthuis

Decision of: 2 August 2001

THE PROSECUTOR

v.

**MLADEN NALETELIĆ, aka "TUTA"
and
VINKO MARTINOVIĆ, aka "ŠTELA"**

**ORDER ON PROSECUTOR'S MOTION FOR PROTECTIVE MEASURES
FOR DEPOSITION WITNESSES**

The Office of the Prosecutor:

Mr. Kenneth Scott

Defence Counsel:

Mr. Krešimir Krsnik, for Mladen Naletelić

Mr. Branko Šerić, for Vinko Martinović

TRIAL CHAMBER I (“the 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 (“the Tribunal”),

NOTING the “Prosecutor’s Motion for Protective Measures for Deposition Witnesses” filed confidentially and under seal on 13 July 2001 (“the Motion”), in which a variety of protective measures for deposition witnesses are requested including pseudonym, face and voice distortion and closed session for one witness, as detailed in Exhibit A to the Motion;

NOTING the position of the Defence, expressed at the Status Conference on 20 July 2001, that they agree to the measures requested by the Prosecutor;

CONSIDERING Article 20 of the Statute, which provides that “hearings shall be public unless the Trial Chamber decides to close the proceedings in accordance with its rules of procedure and evidence”; Article 22 of the Statute, which provides that “The International Tribunal shall provide in its rules of procedure and evidence for the protection of victims and witnesses”; Rule 75 of the Rules of Procedure and Evidence of the Tribunal (“the Rules”) which provides that a Judge or a 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, and Rule 79 of the Rules which provides that the Trial Chamber may order that the press and the public be excluded from all or part of the proceedings for reasons of, *inter alia*, safety, security or non-disclosure of the identity of a victim or witness, and that the Trial Chamber shall make public the reasons for its order;

NOTING the request made by Judge Wald, pre-Trial Judge, at the Status Conference on 20 July 2001, that the Prosecutor supply further details of the need for closed session testimony for one witness, despite the agreement of the Defence to this course, in view of the provisions set out above;

NOTING the “Prosecutor’s Additional Submission Concerning Closed Session Witness” filed confidentially and under seal by the Prosecutor on 25 July 2001 (“the Prosecution’s Additional Submission”) in response to the request of Judge Wald, which explains that the witness concerned reasonably fears for the safety of members of his family who reside in an area

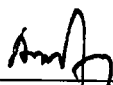
dominated by members of the same ethnic group as the accused if it is known that he has testified for the Prosecution in this case;

CONSIDERING that to allow the witness to testify in closed session, in view of the fears expressed by the witness and the assent of the accused to this course of action, strikes the correct balance between the right of the accused to a public hearing and the duty of the Tribunal to protect victims and witnesses;

PURSUANT to Articles 20, 21 and 22 of the Statute and to Rules 75 and 79 of the Rules;

HEREBY GRANTS the protective measures detailed in Exhibit A to the Motion.

Done in English.


Almiro Rodrigues
Presiding Judge

Dated this second day of August 2001,
At The Hague
The Netherlands.

[Seal of the Tribunal]