

UNITED
NATIONS

IT-94-2-A
A 436- A 434
26 AUGUST 2009

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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-PT
Date: 26 August 2009
Original: English

IN THE TRIAL CHAMBER III

Before: Judge Iain Bonomy, Presiding
Judge Christoph Flüge
Judge Michèle Picard

Registrar: Mr. John Hocking

Decision of: 26 August 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON PROSECUTION'S MOTION FOR RESCISSION OF PROTECTIVE
MEASURES FOR KDZ027 AND KDZ142**

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 for KDZ027 and KDZ142, filed on 27 July 2009 ("Motion") and hereby renders its decision thereon insofar as it pertains to Witness KDZ142.

1. Witness KDZ142, who is listed on the Rule 65 *ter* witness list filed by the Office of the Prosecutor ("Prosecution") on 18 May 2009, was granted protective measures by the Trial Chamber in *Prosecutor v. Slobodan Milošević*.¹ The Prosecution recently contacted the witness who stated that he no longer requires protective measures. For this reason, the Prosecution submitted the Motion seeking to rescind KDZ142's protective measures.² At the Status Conference held on 20 August 2009, the Accused indicated that he is not opposed to the Motion.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 *Milošević* case, the Prosecution properly applied to this Chamber for the rescission of KDZ142'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 consult with any judge who ordered the protective measures in those proceedings. On 20 August 2009, the Pre-Trial Judge consulted with Judges Robinson and Kwon, who sat on the trial bench in *Milošević* which granted the protective measures to KDZ142.

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 protective measures. Upon the request of the Chamber, the VWS has contacted KDZ142, who confirmed that he consents to the rescission of his protective measures.

¹ *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, Decision on Prosecution Motion for Trial Related Protective Measures for Witnesses (Bosnia), 30 July 2002.

² Motion, para. 4.

³ T. 413 (20 August 2009), Status Conference.

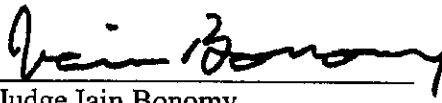
⁴ Rule 75(G)(i)

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."

5. Taking into account the comments of Judges Robinson and Kwon, and in light of the position taken by the witness himself, the Chamber is satisfied that rescission of all protective measures granted to KDZ142 in the *Slobodan Milošević* case is appropriate.

6. Accordingly, the Trial Chamber, pursuant to Rule 75 of the Rules, hereby **GRANTS** the Motion insofar as it relates to Witness KDZ142, and **RESCINDS** the protective measures granted to him in the *Slobodan Milošević* case.

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



Judge Iain Bonomy
Presiding

Dated this twenty-sixth day of August 2009
At The Hague
The Netherlands

[Seal of the Tribunal]