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TRIAL CHAMBERS
CHAMBRES DE 1ère INSTANCE

International
Criminal Tribunal
for the Former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

TADIĆ CASE: UPDATE ON WITNESS L (DRAGAN OPACIĆ)

Trial Chamber II, presided over by Judge McDonald, recently issued two decisions related to Dragan OPACIĆ, previously known as Witness L:

1. On 5 December, Trial Chamber II decided "to withdraw [the] protective measures for Witness L".

These measures had been ordered on 14 November 1995 for a person identified at that time as Witness L. Their withdrawal follows a request, made orally by the Office of the Prosecutor on 25 October 1996, and granted orally the same day by the Judges, who had reserved the written text to a later date.

In its reasoning, the Trial Chamber recalls that it issued many decisions for the protection of witnesses and that these decisions set out some procedural safeguards. Namely, that *"if a less restrictive measure can satisfy the requested protection, that lesser measure should be applied"* and that *"if at any time, protective measures are no longer required, they shall cease to apply"*.

With regard to Witness L, the Chamber notes that *"it is agreed between the parties that the protective measures (...) are no longer justified. Thus, considering the Trial Chamber's preference to limit protective measures to those that are truly necessary, (...), the Trial Chamber grants the Motion"*.

Audio-visual record and transcript of Witness L's testimony become public

As a consequence of its aforementioned decision, the Trial Chamber ruled that *"the audiovisual record together with the transcript of the testimony given by witness L may now be released in full"*. However, this release remains *"subject to any redactions that may be required to give effect to protective measures (...) granted with respect of other witnesses and to protect ongoing investigations or other confidential material"*, including the conviction of Witness L by a court in Bosnia and Herzegovina in a trial *"of which neither the proceedings nor the decision have been made public because he was tried as a minor"*.

The redacted transcript can already be made available upon request at the Press and Information Office. The audiovisual record is being redacted, and will become available in the two coming weeks.

.../...

2. On 11 December, Trial Chamber II "directed the Prosecution to investigate the matter of the presentation of false testimony by Dragan Opacić and evaluate the possibility of the preparation and submission of an indictment against him".

This Order is based upon paragraph (B) of Rule 91 (False testimony under solemn declaration) of the Rules of Procedure and Evidence which reads:
(B) If a Chamber has strong grounds for believing that a witness has knowingly and willfully given false testimony, it may direct the Prosecutor to investigate the matter with a view to the preparation and submission of an indictment for false testimony.

The full text of this Order is available upon request at the Press and Information Office.

Background information

If Dragan Opacić were eventually tried for false testimony, two other provisions of Rule 91 would be relevant:

(D) No Judge who sat as a member of the Trial Chamber before which the witness appeared shall sit for the trial of the witness for false testimony.

(E) The maximum penalty for false testimony under solemn declaration shall be a fine of US\$ 10,000 or a term of imprisonment of twelve months, or both. The payment of any fine imposed shall be made to the Registrar to be held in [a separate account].

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