



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: 1 November 2010
Original: English

IN TRIAL CHAMBER II

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

Registrar: Mr. John Hocking

Decision of: 1 November 2010

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC

**DECISION GRANTING PROSECUTION'S SIXTEENTH
MOTION FOR PROTECTIVE MEASURES FOR ST221
AND ST222**

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 the “Prosecution’s sixteenth motion for protective measures for victims and witnesses with Annex A”, filed confidentially on 13 October 2010 (“Motion”), whereby the Prosecution requests the Trial Chamber to grant pseudonyms together with voice and facial distortion measures for witnesses ST221 and ST222;¹

NOTING that neither the Defence of Mićo Stanišić nor the Defence of Stojan Župljanin filed a Response;

NOTING that ST221, a Bosnian Serb who left Bosnia during the war, faces regular harassment and intimidation and his children are subjected to verbal and physical abuse when they visit their former home town in Bosnia;²

NOTING that ST221 fears for his safety and that of his family if it became known that he has testified for the Prosecution before the Tribunal;³

NOTING that ST222, a Bosnian Serb and former member of RSMUP, started receiving a number of late night anonymous telephone calls after being contacted by the Prosecution with regard to this case, and that earlier on, after testifying publically at the State Court in Belgrade, an anonymous caller had threatened that “they would come for him”;⁴

NOTING that ST222 is concerned about reprisals, particularly against his children, should he testify publicly in this case;⁵

CONSIDERING that pursuant to Article 20(1) of the Statute, the Trial Chamber shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the Rules of Procedure and Evidence (“Rules”), with full respect for the rights of the accused as outlined in Article 21 and due regard for the protection of victims and witnesses;

CONSIDERING that pursuant to Rule 75(A), 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;

¹ Motion, paras. 1- 2, 11.

² *Id.*, para 9; Annex A, paras. 7-14.

³ *Ibid.*

⁴ *Id.*, para 10; Annex A, paras. 15-21.

⁵ *Ibid.*

CONSIDERING that a party seeking protective measures must demonstrate the existence of a real fear for the safety of the witness or that of his family,⁶ in the sense of “an objectively grounded risk to the security or welfare of the witness or the witness’s family, should it become publicly known that the witness gave evidence”⁷;

CONSIDERING that the Trial Chamber is satisfied that the concerns of ST221 and ST222 are legitimate, and warrant the use of pseudonyms and voice and image distortion measures;

PURSUANT TO Articles 20, 21 and 22 of the Statute and Rules 69 and 75 of the Rules;

GRANTS the Motion;

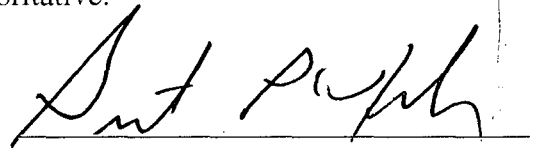
ORDERS that

1. ST221 and ST222 be granted voice and image distortion;
2. They shall be assigned pseudonyms which shall be used whenever reference is made to them at trial, in related proceedings before the Tribunal and in discussions among parties;
3. The names, addresses, whereabouts of and identifying information concerning ST221 and 222 shall be sealed and not included in any public records of the Tribunal;
4. To the extent that the names, addresses, whereabouts of, or other identifying data of ST221 and 222 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 ST221 and ST222 while they are in the precincts of the Tribunal.

⁶ *Prosecutor v. Duško Tadić*, Case No. IT-94-1-T, Decision on the Prosecution’s motion requesting protective measures for victims and witnesses, 10 Aug 1995, para. 62.

⁷ *Prosecutor v. Milan Martić*, Case No. IT-95-11-T, Decision on Defence motion for protective measures for witnesses MM-096, MM-116 and MM-090, 18 Aug 2006, pp 2-3. See also *Prosecutor v. Tihomir Blaškić*, Case No. IT-95-14, Decision on application for protective measures and motion to enlarge time, 8 Nov 2005, p. 5; *Prosecutor v. Mile Mrkšić et al.*, Case No. IT-95-13/1, Decision on Prosecution’s additional motion for protective measures of sensitive witnesses, 25 Oct 2005, para. 5; *Prosecutor v. Dario Kordić and Mario Čerkez*, Case No. IT-95-14/2, Decision on motion for clarification and motions for protective measures, 13 Oct 2003, para. 23; *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-PT, Decision on Prosecution’s motion for trial related protective measures (Bosnia), 30 July 2002, para. 5.

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



Judge Burton Hall
Presiding

Dated this first day of November 2010

At The Hague

The Netherlands

[Seal of the Tribunal]