



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-T

Date: 22 June 2010

Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding Judge
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Decision of: 22 June 2010

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON PROSECUTION'S MOTION FOR RESCISSION OF PROTECTIVE
MEASURES FOR KDZ323**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Standby Counsel

Mr. Richard Harvey

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 seised of the “Prosecution’s Motion for Rescission of Protective Measures for KDZ323”, filed confidentially on 10 June 2010 (“Motion”), and hereby issues its decision thereon.

1. Witness KDZ323 was granted a number of protective measures (pseudonym, image and voice distortion) by the Trial Chamber in *Prosecutor v. Dragomir Milošević*.¹ In the Motion, the Prosecution states that it has recently been informed by the witness that he no longer requires these protective measures and requests the Chamber to rescind them. While the Accused has not filed a response to the Motion, the Chamber notes that the Accused has previously requested that protective measures “be rescinded except in cases of witnesses that have precisely asked to be protected.”²

2. Rule 75(G)(i) 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 seised of the proceedings wherein the measures were originally granted. However, as there is no Chamber currently seised of the *D. Milošević* case, the Prosecution has properly applied to this Chamber for the rescission of KDZ323’s protective measures pursuant to Rule 75(G)(ii).³

3. Before determining an application made pursuant to 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 14 June 2010, this Chamber consulted with Presiding Judge Patrick Robinson, Judge Frederik Harhoff, and Judge Antoine Kesia-Mbe Mindua, who presided over the *D. Milošević* case and granted the protective measures to KDZ323.

4. Furthermore, 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 request of the Chamber, the VWS contacted KDZ323, who confirmed that he consents to the rescission of his protective measures.

¹ *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-T, Decision on Prosecution’s Motion for Protective Measures, 12 February 2007 (“*D. Milošević* case”). The protective measures were continued in the *Perišić* case.

² See, e.g., Status Conference, T. 413 (20 August 2009).

³ 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 seised of the first proceedings, to the Chamber seised of the second proceedings.”

5. Taking into account the comments made by the previous *D. Milošević* Chamber, and in light of the position taken by the witness himself, the Chamber is satisfied that rescission of all the protective measures granted to KDZ323 in the *D. Milošević* case is appropriate.

6. Accordingly, the Trial Chamber, pursuant to Rules 54 and 75 of the Rules, hereby **GRANTS** the Motion, and **RESCINDS** the protective measures granted to KDZ323 in the *D. Milošević* case.

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



Judge O-Gon Kwon
Presiding

Dated this twenty-second day of June 2010
At The Hague
The Netherlands

[Seal of the Tribunal]