



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-02-54-T
Date: 27 August 2003
Original: English

IN THE TRIAL CHAMBER

Before: Judge Richard May, Presiding
Judge Patrick Robinson
Judge O-Gon Kwon

Registrar: Mr. Hans Holthuis

Order of: 27 August 2003

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**DECISION ON PROSECUTION'S MOTION FOR LEAVE TO ADD WITNESSES B-225
AND C-057 TO THE WITNESS LIST AND REQUEST PROTECTIVE MEASURES**

The Office of the Prosecutor

Ms. Carla Del Ponte
Mr. Geoffrey Nice
Mr. Dermot Groome

The Accused

Slobodan Milošević

Amici Curiae

Mr. Steven Kay, QC
Mr. Branislav Tapušković
Mr. Timothy L.H. McCormack

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 ("International Tribunal"),

BEING SEISED of a partly confidential and *ex parte* "Prosecution's Motion for Leave to Add Witnesses B-225 and C-057 to the Witness List and Request Protective Measures", filed by the Prosecution on 31 July 2003 ("Motion"), which requests the addition of two witnesses to its witness list for the Croatia and Bosnia part of the trial, and the protective measure of delayed disclosure for C-057 and non-disclosure agreements and related measures for both witnesses,

CONSIDERING the Trial Chamber's ruling subsequent to the filing of the Prosecution's pre-trial material for the Croatia and Bosnia part of these proceedings that it would only allow the admission of additional material by the Prosecution on good cause being shown,¹

CONSIDERING the Trial Chamber accepts that the explanation offered in the confidential and *ex parte* annexes to the Motion satisfies the Trial Chamber that its requirement that good cause be shown, in respect of witnesses B-225 and C-057, is satisfied, in that one of the witnesses has only recently been interviewed and the other witness has only recently agreed to testify,

NOTING that with respect to the protective measures sought, the Prosecution relies upon Rules 69, 75 and 79 of the Rules of Procedure and Evidence of the Tribunal ("Rules"),

NOTING the confidential and *ex parte* Annexes to the Motion setting out the nature of the testimony the witnesses would give and the reasons for the application for protective measures,

CONSIDERING that the Trial Chamber set out in detail, in its Decision of 13 March 2003 and in previous decisions, the preconditions to be satisfied before the particular measures sought will be granted,² and will apply those preconditions to the relief sought in this application,

¹ "Decision on Prosecution Request for Agreement of Trial Chamber to Amend Schedule of Filings", 18 April 2002, p.3.

² See "Decision on Prosecution's Further Motion to Amend Witness List and for Protective Measures for Sensitive Source Witnesses", 13 March 2003. See also Decisions referred to by the Chamber in that Decision for Rule 69 measures, as follows: Prosecutor v. Milošević, "Decision on Prosecution Motion for Provisional Protective Measures" issued on 19 February 2002 ("First Decision"); "Decision on Prosecution Motion for Protective Measures for Victims and Witnesses" issued on 19 March 2002 ("Second Decision"), and "Second Decision on Protective Measures for Sensitive Witnesses", 6 June 2003.

CONSIDERING that the Trial Chamber has applied the relevant criteria and has determined that the protective measures of delayed disclosure sought with respect to witness C-057 are appropriate, and that such orders are consistent with the rights of the Accused. The reasons for this are the particular security risks attaching to the witness and the important nature of the testimony it is said the witness will give,

CONSIDERING FURTHER that, with respect to the application in respect of both witnesses that the Accused and his appointed associates not disclose the material to third parties except to the extent directly and specifically necessary for the preparation and presentation of the defence case (and the *amici curiae* do so to the extent necessary to assist the Trial Chamber), and that they obtain non-disclosure agreements before doing so, the Chamber will grant this request, on the basis that it applies to a special and limited category to which these witnesses belong,¹

¹ This reflects the consistent position of the Chamber on these matters. See, in this case, "Decision on Prosecution's Further Motion to Amend Witness List and for Protective Measures for Sensitive Source Witnesses", 13 March 2003, and "First Decision on Protective Measures for Sensitive Source Witnesses", 3 May 2003.
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PURSUANT TO RULES 54 AND 69

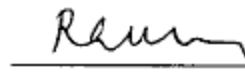
HEREBY GRANTS THE MOTION and ORDERS as follows:

- (1) The witnesses identified as B-225 and C-057 may be added to the witness list;
- (2) As to the protective measure of delayed disclosure sought in respect of witness C-057, disclosure of his unredacted witness statements and related exhibits shall be made to the *amici curiae* not less than 30 days, and to the accused and his appointed associates not less than 10 days, before the witness is expected to testify;
- (3) As to the application with respect to third party agreements sought in respect of witnesses B-225 and C-057
 - (a) the accused and his appointed associates shall not disclose the witness statements and related exhibits to third parties except to the extent directly and specifically necessary for the preparation and presentation of the defence case (and, in the case of the *amici curiae*, the extent to which they are assisting the Trial Chamber); and
 - (b) the accused, his appointed associates and *amici curiae* shall obtain non-disclosure agreements from third parties (as provided by the Prosecution) as a precondition for release of the witness statements and related exhibits to them.

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

Dated this twenty-seventh day of August 2003
At The Hague
The Netherlands

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Richard May
Presiding

[Seal of the Tribunal]

27 August 2003