

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

CASE No. IT-08-91-A
CASE No. MICT-13-55

IN THE APPEALS CHAMBER

Before: Judge Carmel Agius, Presiding
Judge Liu Daqin
Judge Christoph Flugge
Judge Fausto Pocar
Judge Koffi Kumelio Affande

Registrar: Mr. John Hocking

Date: 31 March 2016

THE PROSECUTOR

v.

MICO STANISIC &
STOJAN ZUPLJANIN

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR ACCESS TO PROSECUTION'S
SIXTH PROTECTIVE MEASURES MOTION

The Office of the Prosecutor:
Mr. Serge Brammertz

Counsel for the Appellants:
Mr. Slobodan Zecevic and Mr. Stephane Bourgon for Mico Stanisic
Mr. Dragan Krgovic and Ms. Tatjana Cmeric for Stojan Zupljanin

Counsel for the Applicant:
Mr. Peter Robinson for Radovan Karadzic



1. Dr. Radovan Karadzic hereby moves for access to the *Prosecution's Sixth Motion for Protective Measures for Victims and Witnesses with annex A* (25 September 2009) filed confidentially in the *Stanisic & Zupljanin* case.

2. On 30 June 2010, the Trial Chamber in the *Stanisic & Zupljanin* case granted in part the *Motion by Radovan Karadzic for Access to Confidential Material in the Stanisic & Zupljanin Case* (14 April 2009).¹ However, it denied Dr. Karadzic access to all confidential filings in the case. The Trial Chamber indicated that should Dr. Karadzic require access to confidential filings, he should make a subsequent access motion that specifically identified items or categories of items with a showing of the legitimate forensic purpose for access to such items.²

3. Prosecution Witness KDZ603 was the beneficiary of protective measures applied *mutatis mutandis* from the *Stanisic & Zupljanin* Trial Chamber's *Decision Granting in Part and Denying in Part the Prosecution's Sixth Motion for Protective Measures for Victims and Witnesses* (21 October 2009). The decision, which was filed publicly, provides no information concerning the facts upon which the protective measures were granted.

4. The factual basis for the protective measures was presumably set forth in the *Prosecution's Sixth Motion for Protective Measures for Victims and Witnesses with annex A* (25 September 2009). Dr. Karadzic seeks to know the factual basis for the protective measures granted to Witness KDZ603.

5. Dr. Karadzic has a legitimate forensic purpose for access to the factual basis of the protective measures granted to Witness KDZ603. As a potential ground of appeal, Dr. Karadzic may wish to challenge the Trial Chamber's denial of protective measures for Dr. Karadzic's defence witnesses on the grounds that an objectively grounded risk to the safety or welfare of the witness was not shown.³ Dr. Karadzic may contend that the Trial Chamber erred in applying a different standard than it applied to protective measures

¹ *Prosecutor v Stanisic & Zupljanin*, No. IT-08-91-T, *Decision Partially Granting Radovan Karadzic's Request for Access to Confidential Material* (30 June 2010)

² *Decision* at para. 18

³ *Decision on Accused's Motions for Protective Measures for Witnesses KW289, KW299, KW378, and KW543* (1 November 2012), para. 13; *Decision on Accused's Motion for Video Link and Consideration of Protective Measures for Witness KW533* (9 November 2012), para. 15; *Decision on Accused's Motions for Protective Measures for Witness KW492* (23 November 2012), para. 6; *Decision on Accused's Motions for Protective Measures for Witness KW402* (8 January 2013), para. 7

granted or continued for prosecution witnesses. In order to do so, he has a right to know the factual basis for the protective measures for the prosecution's witnesses, including KDZ603.

6. In addition, Dr. Karadzic may wish to challenge on appeal the factual findings in his judgement based upon the evidence of Witness KDZ603. The basis for the witness' protective measures are also relevant to this issue.

7. Therefore, Dr. Karadzic respectfully requests that he be given access to the *Prosecution's Sixth Motion for Protective Measures for Victims and Witnesses with annex A* (25 September 2009), or at least that part of the motion dealing with Witness KDZ603.

Word Count: 640

Respectfully submitted,



PETER ROBINSON

Counsel for Radovan Karadzic

