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Mechanism for  
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Criminal Tribunals

Mécanisme pour les  
Tribunaux Pénaux  
Internationaux

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<b>CASE/AFFAIRE NO.</b>	MICT-13-58 MILOSEVIC, SLOBODAN	<b>DATE</b>	11/05/2016
<b>FROM/DE</b>	RAM DORAISWAMY, COURT OFFICER		
<b>APPROVED FOR DISTRIBUTION APPROUVE POUR DISTRIBUTION PAR</b>	Ram DORAISWAMY		
<b>TO/A</b>	<p><b>Senior Legal Officer/ Juriste hors-classe:</b></p> <p><b>Prosecutor MICT/ Procureur du MTPI:</b></p> <p><b>Prosecutor Team MICT/ Équipe du Procureur du MTPI:</b></p> <p><b>Registrar/ Greffier:</b> Mr. J. Hocking</p> <p><b>Communication Services/ Service Communication:</b></p> <p><b>Courtroom Operations/ Opérations en salle d'audience:</b> Ms. Carline Ameerah</p> <p><b>Judicial Records Unit/ Service des dossiers judiciaires:</b> Mr. S.R. Haider</p> <p><b>MICT Arusha Registry/ Greffe de la Division du MTPI à Arusha:</b></p> <p><b>President MICT/ Président du MTPI:</b> Judge Meron</p> <p><b>Single Judge/ Juge unique:</b> Ms. P. Nyambe</p> <p><b>Witness Support and Protection Unit/ Service d'appui et de protection des témoins:</b></p>		
<b>PLEASE FIND ATTACHED/VEUILLEZ TROUVER CI-JOINT</b>			
Decision on a motion for a public redacted version of the 27 January 2010 decision on application of the Prosecutor of the Tribunal for variation of protective measures, submitted by Judge on 10 May 2016			
<b>COMMENTS</b>			
MICT-13-33			

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UNITED  
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Mechanism for International Criminal Tribunals

Case Nos.: MICT-13-58  
              MICT-13-33  
Date: 10 May 2016  
Original: English

**BEFORE A SINGLE JUDGE**

Before: Judge Prisca Matimba Nyambe  
Registrar: Mr. John Hocking  
Order of: 10 May 2016

PROSECUTOR

PROSECUTOR

v.

v.

SLOBODAN MILOŠEVIĆ

JEAN DE DIEU KAMUHANDA

*PUBLIC*

---

DECISION ON A MOTION  
FOR A PUBLIC REDACTED VERSION OF  
THE 27 JANUARY 2010 DECISION ON APPLICATION OF  
THE PROSECUTOR OF THE TRIBUNAL FOR VARIATION  
OF PROTECTIVE MEASURES

---

**The Office of the Prosecutor:**

Mr. Serge Brammertz

**Counsel for Mr. Jean de Dieu Kamuhanda:**

Mr. Peter Robinson

*Duiz*

**I, PRISCA MATIMBA NYAMBE**, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Single Judge in this case;<sup>1</sup>

**NOTING** the confidential and *ex parte* “Decision on Application of the Prosecutor of the Tribunal for Variation of Protective Measures”, issued on 27 January 2010 by the International Criminal Tribunal for the former Yugoslavia in the case of *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T (“*Milošević* Decision”);

**BEING SEISED OF** the “Motion for Redacted Version of Decision”, filed on 2 April 2016 (“Motion”), in which Mr. Jean de Dieu Kamuhanda (“Kamuhanda”) seeks the issuance of a public redacted version of the *Milošević* Decision;<sup>2</sup>

**NOTING** Kamuhanda’s submission that he has a legitimate interest in accessing the *Milošević* Decision in order to assess whether to appeal a decision that relies on the *Milošević* Decision;<sup>3</sup>

**NOTING** the “Prosecution’s Response to Jean de Dieu Kamuhanda’s Motion for Redacted Version of Decision”, filed publicly with a confidential and *ex parte* annex by the Office of the Prosecutor (“Prosecution”) on 12 April 2016 (“Response”), in which the Prosecution submits that it does not oppose the Motion to the extent that it seeks access to the legal reasoning of the *Milošević* Decision and therefore proposes the disclosure to Kamuhanda, with only minimal redactions, of two paragraphs of the *Milošević* Decision that it considers to be relevant;<sup>4</sup>

**RECALLING** the “Order for Submissions”, dated 20 April 2016, filed confidentially and *ex parte* on 21 April 2016, in which I ordered that the Witness Support and Protection Unit of the Mechanism (“WISP”) indicate any redactions to the *Milošević* Decision it considered necessary to ensure the effective protection of all protected witnesses concerned;<sup>5</sup>

**NOTING** the confidential and *ex parte* “Registrar’s Submission in Compliance with the Order Dated 20 April 2016”, filed on 26 April 2016, to which was annexed a confidential and *ex parte* memorandum from the WISP proposing certain redactions in specific paragraphs of the *Milošević* Decision;

<sup>1</sup> Order Assigning a Single Judge to Consider an Application, 7 April 2016.

<sup>2</sup> Motion, paras. 1, 4.

<sup>3</sup> Motion, paras. 2, 3, referring to *Prosecutor v. Jean de Dieu Kamuhanda*, Case No. MICT-13-33, Decision on Motion to Rescind Protective Measures for Defence Witness ALM, 29 March 2016.

<sup>4</sup> Response, paras. 1, 2.

<sup>5</sup> Order for Submissions, 21 April 2016, p. 2.

*Handwritten signature*

**REITERATING** that all proceedings before the Mechanism shall be public unless exceptional reasons require keeping them confidential;<sup>6</sup>

**EMPHASISING** that the protection of witnesses and victims is of utmost importance to the proper functioning of the Mechanism, as well as to the safety of the witnesses and victims and their families, and that, once protective measures have been ordered, they continue to have effect unless they are rescinded, varied, or augmented in accordance with Rule 86(F) of the Rules of Procedure and Evidence of the Mechanism (“Rules”);<sup>7</sup>

**CONSIDERING** that the interests of witness protection can be safeguarded through appropriate redactions in the *Milošević* Decision;

**FINDING** that issuing a public redacted version of the *Milošević* Decision will satisfy the objectives of safeguarding protected witnesses and maintaining the public character of proceedings before the Mechanism;


**FOR THE FOREGOING REASONS,**

**HEREBY GRANT** the Motion; and

**ISSUE**, as an annex to the present decision, a public redacted version of the *Milošević* Decision.

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

Done this 10th day of May 2016,  
At The Hague,  
The Netherlands

  
\_\_\_\_\_  
Judge Prisca Matimba Nyambe  
Single Judge

[Seal of the Mechanism]

<sup>6</sup> *Prosecutor v. Naser Orić*, Case No. MICT-14-79, Decision on an Application for Leave to Appeal the Single Judge’s Decision of 10 December 2015, 17 February 2016, para. 8.

<sup>7</sup> See *Prosecutor v. Dragoljub Kunarac et al.*, Case Nos. MICT-15-88-R86H.1/MICT-15-88-R86H.2, Decision on Prosecution Motions for a Public Redacted Version of a Decision on Applications Pursuant to Rule 86(H), 9 February 2016, p. 1 and references cited therein; Article 5 of the Transitional Arrangements of the Mechanism, U.N. Security Council Resolution 1966, U.N. Doc. S/Res/1966, 22 December 2010, Annex 2.

# **ANNEX**

**UNITED  
NATIONS**

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 January 2010

Original: English

**IN A SPECIALLY APPOINTED CHAMBER**

**Before:** Judge Bakone Justice Moloto, Presiding  
Judge Christoph Flügge  
Judge Howard Morrison

**Registrar:** Mr. John Hocking

**Decision of:** 27 January 2010

**PROSECUTOR**

v.

**SLOBODAN MILOŠEVIĆ**

[REDACTED]

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**DECISION ON APPLICATION OF THE PROSECUTOR  
OF THE TRIBUNAL FOR VARIATION OF  
PROTECTIVE MEASURES**

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**The Office of the Prosecutor**

Mr. Gavin Ruxton  
The Transition Team

**Prosecutor's Office of Bosnia and Herzegovina**

**Government of Bosnia and Herzegovina**

*via* the Embassy of Bosnia and Herzegovina to The Netherlands

**THIS SPECIALLY APPOINTED CHAMBER** (“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 “Prosecutor’s application for variation of protective measures with confidential and *ex parte* Annexes A and B”, filed confidentially and *ex parte* on 17 December 2009 by the Prosecution of the Tribunal (“Application”), and hereby renders its decision.

## I. PROCEDURAL HISTORY

1. On 17 December 2009, the President of the Tribunal assigned this Chamber to consider the Application.<sup>1</sup>
2. On 6 January 2010, the Chamber ordered the Registry’s Victims and Witnesses Section (“VWS”) pursuant to Rule 75(J) of the Rules of Procedure and Evidence (“Rules”) to contact witnesses B-1070 and B-1701 in order to ascertain whether they consent to the variation of the protective measures as requested in the Application and to file a submission by 13 January 2010.<sup>2</sup>
3. On 11 January 2010, the VWS filed a submission regarding its consultations (VWS submission).<sup>3</sup>

## II. SUBMISSIONS

4. The Prosecution requests variation of protective measures granted to witnesses B-1070 and B-1701 who testified in the *Slobodan Milošević* case so that it may disclose to the Prosecutor’s Office of Bosnia and Herzegovina (“POBiH”) “the identity, contact details as well as certified copies of the statements, transcripts and exhibits” of the two witnesses.<sup>4</sup> The Prosecution seeks to disclose this information to fulfil its obligation pursuant to the Tribunal’s Completion Strategy to transfer to domestic jurisdictions material related to Category II cases, that is, cases which were investigated by the Prosecution but in relation to which an indictment was not issued.<sup>5</sup>

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<sup>1</sup> Order assigning a Chamber to consider an application by the Prosecution for the variation of protective measures, filed confidentially and *ex parte* on 17 December 2009.

<sup>2</sup> Order on application pursuant to Rule 75 filed by the Office of the Prosecutor of the Tribunal for variation of protective measures, filed confidentially and *ex parte* on 6 January 2010.

<sup>3</sup> Rule 33(B) submission in compliance with the “Order on application pursuant to Rule 75 filed by the Office of the Prosecutor of the Tribunal for variation of protective measures” dated 6 January 2010, filed confidentially and *ex parte* 11 January 2010.

<sup>4</sup> Application, para. 1.

<sup>5</sup> Application, paras 2, 8, 9, 13.

5. The Prosecution submits that the transfer of material relating to Category II cases is a key component of the Completion Strategy.<sup>6</sup> In its view “[s]uccessful implementation of the completion strategy requires that [it be] in a position to transfer all available material relevant to a Category II Case, including the information and evidence provided by protected witnesses,” who generally provide the most crucial evidence.<sup>7</sup>

6. The Prosecution submits that it contacted the witnesses to seek their consent to disclose their identity, contact details and statements, transcripts and related exhibits to the POBiH.<sup>8</sup> The Prosecution states that witness B-1070 does not want any of his material to be given to the BiH authorities because “they could not be trusted.”<sup>9</sup> In relation to witness B-1701, the Prosecution states that it reached a person who introduced himself as the witness’ [REDACTED] and who informed the Prosecution that witness B-1701 passed away in [REDACTED]. That person further stated that witness B-1701’s family does not agree to the disclosure of the witness’ material because they do “not believe in the Bosnian judicial system.”<sup>10</sup>

7. Despite the lack of consent, the Prosecution submits that exigent circumstances exist within the meaning of Rule 75(J), which would justify the variation of the protective measures.<sup>11</sup> The Prosecution argues that “the will of the witness cannot be the only determining factor”<sup>12</sup> and recalls that these witnesses’ material is pivotal to the Category II case relating to the crimes allegedly committed in [REDACTED] in the [REDACTED] municipality, Bosnia and Herzegovina (“BiH”).<sup>13</sup> The Prosecution submits that the Category II case in question “focuses on the ethnic cleansing campaign against non-Serbs from [REDACTED] onwards” and that the “investigations aimed to establish the criminal responsibility of a number of selected suspects which held high positions” in the municipality.<sup>14</sup> The Prosecution submits that the “attacks on the [REDACTED] form part of the crime base relevant to this investigation.”<sup>15</sup> In its view, it is “therefore necessary to transfer [the witnesses’] material to the POBiH.”<sup>16</sup>

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<sup>6</sup> Application, para. 8.

<sup>7</sup> Application, para. 12.

<sup>8</sup> Application, paras 1, 17 and Annex A.

<sup>9</sup> Application, para. 17.

<sup>10</sup> Application, para. 17.

<sup>11</sup> Application, para. 16.

<sup>12</sup> Application, paras 17.

<sup>13</sup> Application, paras 2, 7, 20, 22, 23.

<sup>14</sup> Application, para. 21.

<sup>15</sup> *Ibid.*

<sup>16</sup> Application, para. 20.



8. In respect of witness B-1070, the Prosecution submits that [REDACTED] provides evidence about an attack on [REDACTED].<sup>17</sup> It is asserted that witness B-1070 “provides details about [REDACTED].”<sup>18</sup> The Prosecution submits that witness B-1070 is able to give testimony about [REDACTED].<sup>19</sup> The Prosecution further submits that witness B-1070, [REDACTED].<sup>20</sup>

9. The Prosecution submits that Witness B-1070 requested protective measures in 2003 because [REDACTED] feared reprisals from people in [REDACTED] for [REDACTED] testimony.<sup>21</sup> It is stated that the witness was then “facing a forced move back to [REDACTED].”<sup>22</sup> The Prosecution further submits that, when it contacted the witness, “he did not repeat these fears” but stated that the BiH authorities “could not be trusted”.<sup>23</sup>

10. The Prosecution submits that a variation of protective measures would not expose witness B-1070 to any additional risk.<sup>24</sup> It notes that witness B-1070 testified in the *Slobodan Milošević* trial pursuant to Rule 92bis with cross-examination in open session.<sup>25</sup> The Prosecution submits that only little of his evidence “has been presented in a way that makes it accessible to an outside party” because some of his statements became exhibits under seal.<sup>26</sup> The Prosecution argues that, should the Application be granted, “the witness would still be at liberty to decide whether and to which extend it wishes to cooperate with the POBiH”.<sup>27</sup> It further argues that “POBiH would remain bound by the conditions of confidentiality applying to the release of the information and material”.<sup>28</sup>

11. In respect of witness B-1701, the Prosecution argues that [REDACTED] was the [REDACTED].<sup>29</sup> The witness is able to name some of the victims and “some of [REDACTED] who were taking part in the attack.”<sup>30</sup> The Prosecution submits that witness B-1701 requested protected measures in 2003.<sup>31</sup>

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<sup>17</sup> Application, para. 23.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> Application, para. 28.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> Application, para. 29.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> Application, paras 22, 25.

<sup>30</sup> Application, para. 22.

<sup>31</sup> Application, para. 25.

12. The Prosecution submits that witness B-1701 requested protective measures in 2003 because [REDACTED] in the area knew about the fact that [REDACTED]<sup>32</sup> The Prosecution also submits that witness B-1701 [REDACTED] and that he “considers returning to [REDACTED] one day”.<sup>33</sup> The witness further expressed a fear “for the safety of [REDACTED], should they be linked to [REDACTED] testimony at the Tribunal.”<sup>34</sup>

13. The Prosecution argues that in view of the fact that witness B-1701 has since died, “the only remaining question is whether his family’s safety would be endangered if his material is transferred.”<sup>35</sup> It submits that a variation of the witness’s protective measures would not expose his family to any additional risk.<sup>36</sup> In this respect, the Prosecution notes that witness B-1701 testified in the *Slobodan Milošević* case in open session with a pseudonym, as a consequence of which the “content of his evidence is [...] already in the public domain.”<sup>37</sup> Further, the Prosecution submits that when it tried to contact the witness in November 2009 it had two telephone numbers of witness B-1701 – [REDACTED], under one of which the investigator reached the witness’ [REDACTED].<sup>38</sup> For this reason, the Prosecution “assumes that the witness’ family either lives [REDACTED].”<sup>39</sup>

14. Concerning the statement by witness B-1070 and the [REDACTED] of witness B-1701 to the effect that the BiH authorities are unreliable, the Prosecution submits that this is “completely opposed to the findings of the Referral Bench in all of the Rule 11bis proceedings [where] the Referral Bench found that the accused will receive a fair trial if a case is transferred to Bosnia-Herzegovina.”<sup>40</sup> It is submitted that any variation of protective measures would not create an additional safety risk for the witnesses or their families as the information will only be shared with POBiH which is bound to respect the confidentiality of the material disclosed.<sup>41</sup> The Prosecution includes undertakings by the Chief Prosecutor of the POBiH, Marinko Jurčević, and the Government of BiH represented by the Minister of Justice Slobodan Kovač in relation to protected

<sup>32</sup> Application, para. 25.

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*, referring to *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, Prosecution’s motion for trial related protective measures for witness B-1701, filed on 11 April 2003, *ex parte* and confidential Annex A.

<sup>35</sup> Application, para. 26.

<sup>36</sup> Application, para. 27.

<sup>37</sup> Application, para. 27.

<sup>38</sup> Application, para. 26.

<sup>39</sup> Application, para. 26.

<sup>40</sup> Application, para. 19, where the Prosecution also submits that the Referral Bench “carefully examined all issues regarding a fair trial such as witnesses, detention, material used by the ICTY, monitoring of proceedings non imposition of death penalty etc”, *ibid.*

<sup>41</sup> Application, para. 24. The Prosecution also states that “protective measures could be put in place during possible proceedings in BiH” and that the Prosecution “has in the past transferred confidential witness material to the POBiH in numerous other cases (Rule 11 bis cases, category II cases and as a result of rule 75 (H) applications) and to the knowledge of the [Prosecution] there has been no case of breach of confidentiality”, *ibid.*

witnesses.<sup>42</sup> These undertakings contain the assertion that the BiH authorities mentioned above respect the confidentiality of the material to be disclosed.<sup>43</sup>

15. In its submission of 11 January 2010, VWS submits that B-1070 informed it that he does, in fact, consent to the variation of the protective measures.<sup>44</sup> The VWS also submits that in its conversation with the [REDACTED] of witness B-1701 it was informed that the family of witness B-1701 also, in fact, consents to the variation of protective measures.<sup>45</sup>

### III. APPLICABLE LAW

16. The Chamber recalls its decision of 21 October 2009, wherein it set out the law and the procedure with respect to applications made by the Prosecutor of the Tribunal for variation of protective measures in the context of Category II cases.<sup>46</sup> In this decision it found “that the process of transfer of confidential case material related to Category II cases should be a practical one”,<sup>47</sup> and that in respect of these types of cases that an application by the Prosecution is “the most practical approach”.<sup>48</sup> Further, the Chamber found that while Rule 75(H) does not apply to requests made by the Prosecution for the transfer of Category II case material, it would be appropriate that a number of the procedural safeguards set out therein, particularly in Rule 75(I) and (J), should be applied by analogy to requests pertaining to Category II cases.<sup>49</sup>

### IV. DISCUSSION

17. The information provided by the Prosecution as to the witnesses’ consent stands in sharp contrast with the information obtained by the VWS. The Chamber emphasizes, as held in its previous decision, that VWS, as a neutral and non-party section specifically tasked with providing protection and support to witnesses appearing before the Tribunal, be involved in ascertaining whether witnesses, who are subject to applications pursuant to Rule 75 relating to Category II cases, consent to the variation sought.<sup>50</sup> Therefore, and noting that the VWS contacted the witnesses more recently than the Prosecution, the Chamber will base its decision on the information provided to it

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<sup>42</sup> Application, Annex B.

<sup>43</sup> Application, Annex B.

<sup>44</sup> VWS submission, para. 3.

<sup>45</sup> VWS submission, para. 4.

<sup>46</sup> *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, Decision on application of the Prosecutor of the Tribunal for variation of protective measures”, filed confidentially and *ex parte* on 21 October 2009 (“Decision of 21 October 2009”), paras 11-16.

<sup>47</sup> Decision of 21 October 2009, para. 11. See also *id* paras 12-16.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

<sup>50</sup> Decision of 21 October 2009, para. 13.

by the VWS. This means that the Chamber will grant the Application in respect of witness B-1070, who provided consent for the variation of protective measures.

18. With respect to witness B-1701, the Chamber observes that Rule 75(J), which the Chamber has previously found should be applied by analogy to Prosecution applications regarding Category II cases, does not foresee the possibility of consent being given by a person other than the protected witness.<sup>51</sup> The wording of Rule 75(J) clearly takes a strictly individual approach by requiring “that the protected victim or witness has given consent to the recission, variation, or augmentation” sought. In the Chamber’s view, any “consent” of a family member or other relative of a protected witness, even were it to be given on behalf of the family, cannot be substituted for that required by the protected witness or victim subject of an application filed pursuant to Rule 75.

19. In view of the lack of consent, the Chamber will, therefore, consider the Application in relation to witness B-1701 pursuant to Rule 75(J). Specifically, the Chamber will determine whether the Prosecution has made a “compelling showing of exigent circumstances” or satisfied the Chamber that a miscarriage of justice would result if the information relating to this witness was not provided to the POBiH.

20. As the [REDACTED] of the alleged [REDACTED] incident, the evidence of witness B-1701 must be considered important. The Chamber has reviewed the prior testimony of the witness and notes that not only did the witness provide evidence concerning the identity of alleged perpetrators, but [REDACTED] also testified in detail concerning the manner in which the incident unfolded. The Chamber is, therefore, persuaded that the evidence of witness B-1701 is of such importance that were the POBiH not to receive it, a miscarriage of justice would result in respect of the relevant incident.

21. The Chamber notes that at the time protective measures were initially requested for witness B-1701, [REDACTED] expressed concerns primarily for [REDACTED] own safety as a result of [REDACTED] desire to return to the relevant area where [REDACTED]. The witness also expressed fears for the safety of [REDACTED] should they be linked to [REDACTED] testimony before the Tribunal. As noted earlier, the Chamber does not consider the statement of consent of witness B-1701’s [REDACTED] to meet the requirements under Rule 75(J). However, the fact that a close relative of the witness, even if it is not the witness’ own child, has expressed support for the disclosure of the witness’ confidential information indicates that the concerns underlying the Prosecution’s initial application for protective measures for the witness have diminished in importance. The Chamber notes in this respect that the confidentiality attaching to the witness’s

information and evidence will remain effective in any future proceedings and that the POBiH will be bound to respect the confidentiality. The undertakings submitted by the POBiH Chief Prosecutor and by the Government of BiH are also noted in this respect.

22. The Chamber also sought the views of Judge Patrick Robinson, who was on the bench that ordered protective measures at issue in the Application and who remains a Judge of the Tribunal. Judge Robinson conveyed to the Chamber that he would have no objections to the variation of protective measures if this Chamber finds it appropriate to grant the Application.

23. The Chamber is satisfied that the evidence of witness B-1701 is of such importance for the Category II case which the Prosecution seeks to transfer to the POBiH, that a miscarriage of justice would result if the POBiH would not be provided with the evidence of witness B-1701. In view of the fact that witness B-1701, who is now deceased, was [REDACTED] of the incident in question, the Chamber finds that there are exceptional circumstances which warrant the variation of the protective measures that apply to witness B-1701 in the absence of the consent of this witness. However, considering that the witness is deceased there is no need to grant disclosure of the witness contact details to the POBiH.

## V. DISPOSITION

24. Pursuant to Articles 22 and 29 of the Statute of the Tribunal, Rules 54 and 75 of the Rules, the Chamber:

**GRANTS** the Application **IN PART**;

**VARIES** the protective measures of witness B-1070 and witness B-1701, and **LIFTS** the confidential status of the relevant statements, transcripts and exhibits of these witnesses, for the purpose of the Category II case in respect of which the Prosecution is requesting to disclose the material to the POBiH;

**ORDERS:**

1. The Registry to release to the POBiH the identity and contact details of witness B-1070 and the identity of witness B-1701, and certified copies of the statements, transcripts and related exhibits of both witnesses, provided, in respect of witness B-1701, that any contact information of the witness is redacted from the materials;

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<sup>51</sup> Decision of 21 October 2009, para. 14.

2. That the information and material disclosed shall be released to POBiH for the further investigation of the Category II case relating to [REDACTED] municipality for which the material is being made available and any trial proceedings that may result from the investigation of the suspects identified in this Category II case;
3. The POBiH to treat the disclosed information and material as confidential in accordance with existing provisions and agreements; in particular, no information regarding the fact that witnesses B-1070 and B-1701 cooperated with the Tribunal or the information which they provided to the Prosecution shall be disclosed to any other party unless POBiH obtains assurances under threat of criminal sanction that this party will strictly maintain the confidentiality of this information;
4. The Chief Prosecutor of the POBiH and the Government of BiH to comply, upon release of the requested information and material to the POBiH, with the conditions in this Decision and as stated in their written undertakings contained in confidential and *ex parte* Annex B to the Application;
5. That should the POBiH wish to rescind, vary or augment the protective measures for witnesses B-1070 and B-1701 in respect of information or material provided to the POBiH by the Prosecution, the POBiH shall apply to the President of the Tribunal for the appropriate relief pursuant to Rule 75(H).

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

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Judge Bakone Justice Moloto  
Presiding

Dated this twenty-seventh day of January 2010  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**



**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE  
MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/  
FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS DEVANT LE  
MÉCANISME POUR LES TRIBUNAUX PÉNAUX INTERNATIONAUX**

**I - FILING INFORMATION / INFORMATIONS GÉNÉRALES**

<b>To/ À :</b>	MICT Registry/ <i>Greffe du MPTI</i>	<input checked="" type="checkbox"/> Arusha/ <i>Arusha</i>	<input checked="" type="checkbox"/> The Hague/ <i>La Haye</i>		
<b>From/ De :</b>	<input checked="" type="checkbox"/> Chambers/ <i>Chambre</i>	<input type="checkbox"/> Defence/ <i>Défense</i>	<input type="checkbox"/> Prosecution/ <i>Bureau du Procureur</i>	<input type="checkbox"/> Other/ <i>Autre :</i>	
<b>Case Name/ Affaire :</b>	Prosecutor v. Slobodan Milosević Prosecutor v. Jean de Dieu Kamuhanda	<b>Case Number/ Affaire n° :</b>	MICT-13-58 MICT-13-33		
<b>Date Created/ Daté du :</b>	10 May 2016	<b>Date transmitted/ Transmis le :</b>	10 May 2016	<b>No. of Pages/ Nombre de pages :</b>	3
<b>Original Language / Langue de l'original :</b>	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	<input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :
<b>Title of Document/ Titre du document :</b>	Decision on a motion for a public redacted version of the 27 January 2010 decision on application of the Prosecutor of the Tribunal for variation of protective measures.				
<b>Classification Level/ Catégories de classification :</b>	<input checked="" type="checkbox"/> Unclassified/ <i>Non classifié</i>	<input type="checkbox"/> Ex Parte Defence excluded/ <i>Défense exclue</i>			
	<input type="checkbox"/> Confidential/ <i>Confidentiel</i>	<input type="checkbox"/> Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>			
	<input type="checkbox"/> Strictly Confidential/ <i>Strictement confidentiel</i>	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ <i>Art. 86 H) requérant exclu</i>			
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<b>Document type/ Type de document :</b>	<input type="checkbox"/> Motion/ <i>Requête</i>	<input type="checkbox"/> Submission from parties/ <i>Écritures déposées par des parties</i>	<input type="checkbox"/> Indictment/ <i>Acte d'accusation</i>		
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	<input checked="" type="checkbox"/> Order/ <i>Ordonnance</i>	<input type="checkbox"/> Book of Authorities/ <i>Recueil de sources</i>	<input type="checkbox"/> Notice of Appeal/ <i>Acte d'appel</i>		
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**II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT**

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