



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-96-19-Misc. 1
Date: 1 March 1996
Original: ENGLISH AND
FRENCH

IN THE TRIAL CHAMBER

Before: Judge Jorda, Presiding
Judge Odio Benito
Judge Riad

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Order of: 1 March 1996

MOTION ON BEHALF OF GENERAL DJORDE DJUKIC

DECISION

The Office of the Prosecutor:
Mr. Richard Goldstone
Mr. Graham Blewitt
Mr. Grant Niemann

Counsel for the Applicant:
Mr. Milan Vujin
Mr. Toma Fila

Amicus Curiae:
Mrs. Vidović, representative of Bosnia-Herzegovina

THE TRIAL CHAMBER

Having regard to the request presented by Mr. Vujin, counsel for General Djordje Djukic on 26 February 1996 in respect of the illegality of the transfer and detention of General Djukic;

Having heard the Prosecutor, Amicus Curiae, General Djukic, and his counsel at the hearings of 28 February and 1 March 1996;

Having heard the Prosecutor in his introductory statement at the hearing of 1 March and the confirmation of the Registry stating that an indictment against General Djukic was confirmed on 29 February by Judge Karibi-Whyte and served on General Djukic with the order of detention;

Pursuant to Rule 90 *bis* of the Rules of Procedure and Evidence ("Rules");

Considering that by the order of 28 February 1996, this Chamber set the date of expiration of the detention of General Djukic at 4 March 1996 at 00:00 hours;

Considering that by the decision of 12 February 1996, Judge Stephen, pursuant to Rules 54, 56 and 90 *bis* of the Rules, ordered the transfer of General Djukic;

Considering that by the orders of 12 and 24 February 1996, Judge Stephen, pursuant to Rules 54 and 90 *bis* of the Rules, ordered the temporary detention of General Djukic at the United Nations Detention Unit in The Hague, The Netherlands;

Considering that according to Rule 90 *bis* of the Rules, this Chamber does not now have powers of review for the above orders;

Considering that during the hearings, the counsel of General Djukic argued that the decisions of the High Court in Sarajevo dated 7 and 27 February 1996 authorising the detention of General Djukic until 4 March 1996 were both illegal and misfounded;

Considering that pursuant to its Statute and Rules, it should be recalled that the Tribunal has no competence to rule on the legality of a decision taken by a national court;

Considering that the proceedings have demonstrated that General Djukic was informed in Sarajevo about his status as a witness;

Considering that the Registry at the formal request of the Chamber also specified that upon his arrival at the United Nations Detention Unit in The Hague on 12 February 1996, General Djukic was informed that he had been detained as a witness according to Rule 90 *bis* of the Rules;

Considering that this Chamber has not received any information which might permit it to conclude that the status of witness of General Djukic changed at some point during his detention at the United Nations Detention Unit in The Hague;

Considering furthermore that upon his arrival at the United Nations Detention Unit in The Hague, General Djukic was informed of that, whatever his status, he might avail himself of counsel and that the fact that he availed himself of that right on 13 February 1996, is not disputed;

THAT, consequently, from 14 February 1996, his counsel was able to ensure the protection of his rights throughout the period of his detention, including a possible challenge to his status of witness;

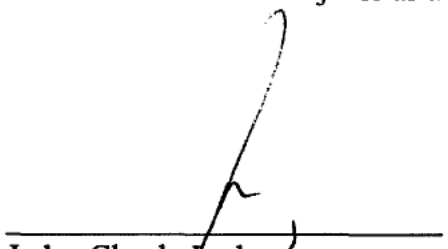
FOR THESE REASONS

REJECTS the request of General Djukic,

TAKES NOTE OF the decision of Judge Karibi-Whyte which, on 29 February 1996, confirmed the indictment against General Djukic,

TAKES NOTE OF the order of detention issued by Judge Karibi-Whyte on 29 February 1996 about which General Djukic was notified on 1 March,

STATES that it has no reason to rule on the extension of the detention of General Djukic as a witness.



Judge Claude Jorda
President of the Trial Chamber I

Dated this 1st day of March 1996
At The Hague,
The Netherlands

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[Seal of the Tribunal]