



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-99-36-T

Date: 1 March 2002

Original: English

IN THE TRIAL CHAMBER

Before: Judge Carmel Agius, Presiding
Judge Ivana Janu
Judge Chikako Taya

Registrar: Mr. Hans Holthuis

Decision of: 1 March 2002

THE PROSECUTOR

v.

**RADOSLAV BRĐANIN
and
MOMIR TALIĆ**

ORDER ON LEGAL REPRESENTATION OF THE ACCUSED MOMIR TALIĆ

The Office of the Prosecutor:

Ms Joanna Korner

Mr Andrew Cayley

Counsel for the Accused Radoslav Brđanin:

Mr John Ackerman

Ms Milka Maglov

Counsel for the Accused Momir Talić

Mr Xavier de Roux

Ms Fauveau-Ivanović

TRIAL CHAMBER II (“the 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 (“the Tribunal”):

NOTING the oral order on the legal representation of the Accused Momir Talić rendered by the Chamber on 13 February 2002 and its undertaking that a written ruling would follow;

NOTING that during the hearing of 6 February 2002, lead counsel for the Accused Momir Talić, Mr de Roux, informed the Chamber that for medical reasons, he would not be in a position to attend the hearing of 13 February 2002;

NOTING further that it was only for the aforementioned reasons that the Chamber authorised Mr de Roux to absent himself, and only for the hearing of 13 February 2002;

NOTING that in the course of the hearing of 13 February 2002, Ms Fauveau-Ivanović, then legal assistant to counsel for the Accused Momir Talić, informed the Chamber that, until 19 February 2002, both Mr de Roux (lead counsel) and Mr Pitron (acting co-counsel) would be absent, and requested, as a consequence, that the Chamber authorise her to represent the Accused Momir Talić instead;

NOTING further that during the hearing of 6 February 2002, the Accused Momir Talić, upon being prompted by lead counsel Mr de Roux, entered a declaration to the effect that he consented to being represented by Ms Fauveau-Ivanović during the absence of Mr de Roux, which was, however, supposed to be restricted to the hearing of 13 February 2002;

CONSIDERING the statement made by the prosecution during the hearing of 13 February 2002 to the effect that on 18 February 2002, a witness was scheduled to testify who would be testifying on a direct encounter that he or she had with the Accused Momir Talić;

NOTING that, although Mr Pitron was, at the time of the hearing of 13 February 2002, not yet on record as co-counsel, he had been acknowledged by the Registrar to be acting in that capacity temporarily and, further, was being paid for his appearances in court;

EMPHASISING also that acting as co-counsel, automatically entails responsibility *vis-a-vis* the Accused Momir Talić as well as *vis-a-vis* the Tribunal;

NOTING further that the official appointment of Mr Pitron as co-counsel has been delayed until Mr Pitron furnishes the Registrar with the documentation that was asked of him months ago;

NOTING that Mr Pitron was absent from court for at least two weeks prior to the hearing of 13 February 2002, when the Chamber orally rendered this order, and had not provided the Chamber with an explanation, nor an indication as to when his return was to be expected, save what was stated by Ms Fauveau-Ivanović upon being questioned by the Chamber in the course of the said hearing;

NOTING further that, since trial proceedings commenced in this case, and prior to the Chamber orally rendering this order, there had been 12 hearings in all and lead counsel Mr de Roux had failed to attend half of them, while acting co-counsel Mr Pitron was present at only three hearings;

NOTING that, during the totality of the second week of this trial, both Mr de Roux and Mr Pitron were absent without furnishing to the Chamber an explanation, let alone a justification, for their absence;

NOTING further that the Accused Momir Talić himself confirmed that, with respect to the said second week of trial, he had not being given any information by his counsel regarding their absence, and had not being contacted by them;

CONSIDERING that this conduct must not be allowed to continue and that it is imperative for the Chamber to ensure that the rights of the Accused Momir Talić are protected while the obligations of counsel appointed to defend him are fully met, more especially so under the circumstances mentioned by the prosecution and noted above;

CONSIDERING further that the Chamber is duty bound to ensure that this trial proceeds regularly without any obstacles;

NOTING in this respect that, subsequent to the Chamber's oral order on 13 February 2002, the Registrar assigned Ms Faveau-Ivanović as co-counsel to the Accused Momir Talić;

NOTING, however, that the status of Mr Pitron remains to be determined, and, if necessary, the Chamber will issue a further ruling on this matter in due course;

FOR THE FOREGOING REASONS

DIRECTS Mr de Roux as lead counsel for the Accused Momir Talić, to ensure his active involvement in the defence of the Accused Momir Talić, including regularly attending court hearings, and, in the event of a justifiable absence, to notify the Chamber, in advance insofar as possible, of the reasons and the length of that absence.

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

Dated this first day of March 2002,
At The Hague,
The Netherlands



Carmel Agius
Presiding Judge

[Seal of the Tribunal]