

**UNITED
NATIONS**



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-99-36-T
Date: 15 April 2002
Original: English

IN TRIAL CHAMBER II

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

Registrar: Mr. Hans Holthuis

Decision of: 15 April 2002

PROSECUTOR

v.

**RADOSLAV BRĐANIN
And
MOMIR TALIC**

**ORDER REQUESTING INVESTIGATION OF CONDUCT OF
CO-COUNSEL FOR DEFENDANT BRĐANIN**

The Office of the Prosecutor:

Ms. Joanna Korner
Mr. Andrew Cayley

Counsel for the Accused:

Mr. John Ackerman and Ms. Milka Maglov, for Radoslav Brđanin
Mr. Xavier de Roux and Ms. Natacha Fauveau-Ivanović, for Momir Talić

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 information provided by the prosecution during the trial proceedings on 8 April 2002, regarding contact between co-counsel for the accused Brdanin, Ms. Milka Maglov and a prosecution witness in the present case (“Witness”), as well as the written statement, dated 7 April 2002, made by the Witness about this contact;¹

NOTING also the response made by lead counsel for Brdanin, Mr. John Ackerman,² as well as the response made directly by Ms. Maglov,³ during the trial proceedings on 8 April 2002;

CONSIDERING that, following the exchange of views by the parties during trial proceedings on 8 April 2002, the following issues require further investigation:

1. The reason behind Ms. Maglov’s visit to the Witness;
2. Whether, at the commencement of her visit to the Witness, Ms. Maglov immediately identified herself and her role in the current proceedings;
3. Whether Ms. Maglov, or anyone else who accompanied her to speak with the Witness, committed any act that could constitute contempt within the meaning of Rule 77 of the Tribunal’s Rules of Procedure and Evidence (“Rules”);
4. Whether any other aspect of Ms. Maglov’s contact with the Witness is relevant to her continued appointment as co-counsel for the accused Brdanin in this case, particularly having regard to the Directive on the Assignment of Defence Counsel (IT/73/Rev. 8) and the Code of Professional Conduct for Defence Counsel Appearing before the International Tribunal (IT/125);

NOTING that the Witness is a prosecution Witness in the present case and that, therefore, it is preferable to have a third party appointed to carry out the required investigations into Ms. Maglov’s alleged conduct;

PURSUANT to Rule 77 (C) of the Rules;

¹ Transcript, 3827-2832, 3842-3844.

² Transcript, 3833-3841.

³ Transcript, 3841-3842.

FOR THE FOREGOING REASONS

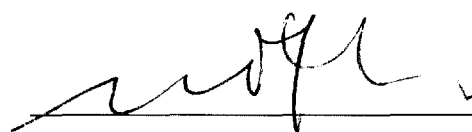
DIRECTS the Registrar to appoint an *amicus curiae* to investigate the matters outlined in this Order and to report back to the Chamber as to the outcome of that investigation as soon as possible.

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

Dated this fifteenth day of April 2002,

At The Hague

The Netherlands



Carmel Agius

Presiding Judge

[Seal of the Tribunal]