

UNITED  
NATIONS

IT-02-53-AR65  
A37/114 bis  
28 MAY 2002

3/114 bis  
mj



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: IT-02-53-AR65

Date: 28 May 2002

Original: French

**IN THE APPEALS CHAMBER**

Before: Judge Claude Jorda, Presiding  
Judge David Hunt  
Judge Mehmet Güney  
Judge Asoka de Zoysa Gunawardana  
Judge Theodor Meron

Registrar: Mr Hans Holthuis

Decision of: 28 May 2002

**PROSECUTOR**

v

Vidoje BLAGOJEVIĆ  
Dragan OBRENOVIĆ  
Dragan JOKIĆ

**DECISION ON MOTION TO PRESENT ADDITIONAL EVIDENCE**

**Counsel for the Prosecutor:**

Mr Norman Farrell  
Mr Peter McCloskey

**Counsel for the Applicant:**

Mr Miodrag Stojanović and Ms Cynthia Sinatra for Dragan Jokić

**THE APPEALS 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,

**NOTING** the “Motion to Present Additional Evidence Pursuant to Rule 115”, filed on 3 May 2002, whereby the Defence applies to present additional evidence before the Appeals Chamber and to be allowed to seek further guarantees from the Government of Bosnia and Herzegovina;

**NOTING** that Article 115 of the Rules of Procedure and Evidence (“Rules”) provides that “[a] party may apply by motion to present before the Appeals Chamber additional evidence which was not available to it at trial”;

**CONSIDERING** that, pursuant to Rule 115, the moving party must demonstrate that the additional material proffered was not available at the trial and that the evidence could not have been discovered through the exercise of due diligence;<sup>1</sup>

**NOTING** that the additional material sought to be admitted consists of a letter from the President of the Government of the Republika Srpska;

**CONSIDERING** that the Appellant failed to establish that the evidence could not have been obtained through the exercise of due diligence at the time of the application for provisional release;

**HEREBY DISMISSES** the motion.

<sup>1</sup> *Prosecutor v. Hazim Delić*, IT-96-21-R-R119, Decision on Motion for Review, 25 Apr 2002, par 10; *Prosecutor v. Tadić*, IT-94-1-A, Decision on Appellant’s Motion for the Extension of the Time Limit and Admission of Additional Evidence, 15 Oct 1998 (“*Tadić* Rule 115 Decision”), pars 35-45; *Prosecutor v. Kupreškić et al*, IT-95-16-A, Appeal Judgement, 23 Oct 2001 (“*Kupreškić* Appeal Judgement”), par 50.

1/114 bis

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

Dated this 28<sup>th</sup> day of May 2002,  
At The Hague,  
The Netherlands.

[signed]

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Judge Claude Jorda  
Presiding Judge

[Seal of the Tribunal]