



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-95-9-T  
Date: 12 June 2002  
Original: English

**IN TRIAL CHAMBER IIB**

**Before:** Judge Florence Ndepele Mwachande Mumba, Presiding  
Judge Sharon A. Williams  
Judge Per-Johan Viktor Lindholm

**Registrar:** Mr. Hans Holthuis

**Decision of:** 12 June 2002

**PROSECUTOR**

v.

**BLAGOJE SIMIĆ  
MIROSLAV TADIĆ  
SIMO ZARIĆ**

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**DECISION ON PROSECUTION REQUEST TO SUBSTITUTE A WITNESS PURSUANT  
TO RULE 73BIS(D)**

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**The Office of the Prosecutor:**

Mr. Gramsci Di Fazio  
Mr. Phillip Weiner  
Ms. Aisling Reidy

**Counsel for the Accused:**

Mr. Igor Pantelić and Mr. Srdjan Vuković for  
Blagoje Simić  
Mr. Novak Lukić and Mr. Dragan Krgović for  
Miroslav Tadić  
Mr. Borislav Pisarević and Mr. Aleksandar  
Lazarević for Simo Zarić

**THIS TRIAL 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”),

**BEING SEISED** of the “Prosecution Request to Substitute a Witness Pursuant to Rule 73*bis* (D)” filed by the Office of the Prosecutor (“the Prosecution”) on 4 June 2002 (“Prosecution Request”), in which the Prosecution seeks to substitute Esad Čosić (Witness 41) by Kemal Bobić (Witness 39),

**NOTING** the “Joint Defense Response to the Prosecution Request to Substitute a Witness Pursuant to Rule 73*bis* (D)” filed by the Defence for all accused (“the Defence”) on 7 June 2002, which opposes the Prosecution Request,

**NOTING** the “Decision on Prosecutor’s Request to Maintain Witnesses on Her List” issued by the Pre-trial Judge on 4 September 2001 (“Decision of 4 September 2001”),

**NOTING** that the Prosecution submits in support of its request that Esad Čosić has undergone heart by-pass surgery, and that Esad Čosić and Kemal Bobić have similar witness profiles, and that the Defence will receive a statement of Kemal Bobić under Rule 92*bis* of the Rules of Procedure and Evidence of the Tribunal (“the Rules”),

**CONSIDERING** that the Prosecution, of its own volition, withdrew Kemal Bobić from the Prosecution confidential witness list of 9 April 2001 filed under Rule 65*ter* (E) of the Rules before the commencement of trial,

**CONSIDERING** that the previous statement of Kemal Bobić was disclosed to the Defence at the Pre-trial stage,

**CONSIDERING** that in the past this Trial Chamber has had occasion to deal with instances of ill health of witnesses, which resulted in the delay of the proceedings,

**CONSIDERING** that the substitution of Esad Čosić by Kemal Bobić will not cause prejudice to the Defence in the preparation of their case,

**PURSUANT TO** Rule 54 and Rule 73*bis* (D) of the Rules,

**HEREBY GRANTS THE PROSECUTION REQUEST.**

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



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Florence Ndepele Mwachande Mumba  
Presiding Judge

Done this 12<sup>th</sup> day of June 2002,  
At The Hague,  
The Netherlands.

**[Seal of the Tribunal]**