



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-02-55-MISC.6
Date: 10 September 2002
Original: English

BEFORE THE TRIAL CHAMBER

Before: Judge Liu Daqun, Presiding
Judge Amin El Mahdi
Judge Alphonsus Orié

Registrar: Mr. Hans Holthuis

Order of: 10 September 2002

IN RE: THE REPUBLIC OF MACEDONIA

**DECISION ON THE APPLICATION OF THE PROSECUTOR FOR
AN INTERIM ORDER AND SCHEDULING ORDER**

The Office of the Prosecutor:

Mr. Graham Blewitt

THIS TRIAL CHAMBER (“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 International Tribunal”):

BEING SEIZED OF the “Prosecutor’s Request for Deferral and Motion for Order to the Former Yugoslav Republic of Macedonia”, filed on 5 September 2002 (“the Prosecutor’s Request”);

NOTING the “Prosecutor’s Motion to President to Assign Trial Chamber to Prosecutor’s Deferral Request“, filed on 5 September 2002;

NOTING the “Ordonnance du Président relative à l’attribution d’une affaire à une Chambre de première instance”, filed on 6 September 2002, whereby the Chamber was entrusted with the Prosecutor’s Request;

NOTING that, due to the urgency of part of the Prosecutor’s Request, a hearing of the Prosecution in the presence of an authorised official of the Registry was conducted on 10 September 2002;

CONSIDERING that the Prosecutor’s application for an interim order to stop criminal proceedings against two individuals commencing on 11 September 2002 in the Republic of Macedonia constitutes part of and is, therefore, closely intertwined with the broader applications in the Prosecutor’s Request, namely, that the Chamber, pursuant to Rules 9 (iii) and 10 of the Rules of Procedure and Evidence of the Tribunal (“the Rules”), formally request the courts of the Republic of Macedonia “that they defer to the competence of the Tribunal all current and future investigations and prosecutions of alleged crimes committed by members of the National Liberation Army (“NLA”) during 2001” and that the Chamber orders “the courts of Macedonia that they cease forthwith all ongoing investigations and prosecutions of NLA members for crimes committed during 2001 pending the Prosecutor’s request for deferral”¹;

CONSIDERING that, in the course of the hearing, the Prosecution re-submitted and explained its application for an interim order to be rendered by the Chamber as of today to stop the commencement of criminal proceedings against two individuals in the Republic of Macedonia on 11 September 2002; that the Prosecution with regard to all other remaining aspects of the Prosecutor’s Request suggested that an authorised Representative of the Republic of Macedonia

may be heard by the Chamber and that a decision of the Chamber on all other aspects of the Prosecutor's Request may be stayed until such time;

CONSIDERING that the Chamber agrees with the Prosecution that it is appropriate to hear an authorised Representative of the Republic of Macedonia before a decision pursuant to Article 9 (2) of the Statute of the Tribunal ("the Statute") and Rules 9 and 10 of the Rules is rendered by the Chamber;

CONSIDERING that, on the basis of the written Prosecutor's Request and the oral arguments submitted during the hearing on 10 September 2002, the Chamber is not satisfied that there are circumstances that justify the issuance of an interim order under Rule 54 of the Rules to stop the commencement of the criminal proceedings against two individuals on 11 September 2002 in the Republic of Macedonia;

CONSIDERING that a formal hearing of the Prosecution and an authorised Representative of the Republic of Macedonia pursuant to Article 9 (2) of the Statute and Rule 9 and 10 of the Rules shall take place in due time;

PURSUANT TO Article 9 of the Statute and Rules 54, 9 and 10 of the Rules;

¹ Prosecutor's Motion to President to Assign Trial Chamber to Prosecutor's Deferral Request, IT-02-55-MISC.6, 5 September 2002, p. 1; see also Prosecutor's Request for Deferral and Motion for Order to the Former Yugoslav Republic of Macedonia, IT-02-55-MISC.6, 5 September 2002, p. 1.

FOR THE FOREGOING REASONS**HEREBY DECIDES THE FOLLOWING:**

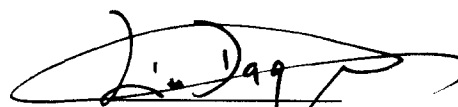
1. The Prosecutor's application for an interim order to stop the commencement of the criminal proceedings against two individuals on 11 September 2002 in the Republic of Macedonia is rejected.
2. The Prosecutor's Request for Deferral and Motion for Order to the Republic of Macedonia shall be addressed in full at a hearing to be held on 25 September 2002, at 14:15 hours, in courtroom II.
3. An authorised Representative of the Republic of Macedonia shall be authorised to participate in the hearing.
4. The Decision of the Chamber regarding the Prosecutor's Request for Deferral and Motion for Order to the Republic of Macedonia shall be rendered after the hearing.

INVITES an authorised Representative of the Republic of Macedonia to appear before the Chamber to explain the position of the Republic of Macedonia with regard to the Prosecutor's Request;

REQUESTS the Registry to notify the Government of the Republic of Macedonia of this order.

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

Dated this tenth day of September 2002,
At The Hague,
The Netherlands



Judge Liu Daqun
Presiding Judge

[Seal of the Tribunal]