

UNITED  
NATIONS

IT-02-60-PT  
D 15931-D15929  
16 APRIL 2003

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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-02-60-PT  
Date: 16 April 2003  
Original: English

**IN TRIAL CHAMBER I**

**Before:** Judge Liu Daqun, Presiding  
Judge Amin El Mahdi  
Judge Alphons Orie

**Registrar:** Mr. Hans Holthuis

**Decision of:** 16 April 2003

**PROSECUTOR**

v.

**VIDOJE BLAGOJEVIĆ  
DRAGAN OBRENOVIĆ  
DRAGAN JOKIĆ  
MOMIR NIKOLIĆ**

**DECISION ON PROSECUTION'S THIRD MOTION FOR  
LEAVE TO AMEND WITNESS LIST**

**The Office of the Prosecutor:**

Mr. Peter McCloskey

**Counsel for the Accused:**

Mr. Michael Karnavas and Ms. Suzana Tomanović for Vidoje Blagojević  
Mr. David Wilson and Mr. Dušan Slijepčević for Dragan Obrenović  
Mr. Miodrag Stojanović and Ms. Cynthia Sinatra for Dragan Jokić  
Mr. Veselin Londrović and Mr. Stefan Kirsch for Momir Nikolić

**TRIAL CHAMBER I** ("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 ("Tribunal"),

**BEING SEISED OF** "Prosecution's Motion for Leave to Amend Witness List," filed under seal on 31 March 2003 ("Motion"), in which the Office of the Prosecutor ("Prosecution") seeks leave to add three witnesses to its witness list,

**NOTING** that none of the Accused in this case filed a Response to the Motion,

**NOTING** that the Prosecution filed its updated witness list with revised summaries on 31 March 2003,<sup>1</sup> incorporating witnesses added to the initial witness list of 8 November 2002,<sup>2</sup> following two decisions by Trial Chamber II permitting the Prosecution to amend its witness list,<sup>3</sup>

**NOTING** that through the Motion the Prosecution seeks to add three fact witnesses, for whom it has pledged to disclose "immediately" all statements and information reports in its possession pertaining to these witnesses, and for whom it attached witness summaries to the Motion, in compliance with Rule 65 *ter* (E)(ii)(b) of the Rules of Procedure and Evidence ("Rules"),

**NOTING** that the Prosecution submits that it intends to call all of the proposed fact witnesses as *viva voce* witnesses and that the Prosecution submits that the testimony to be provided by these witnesses is "critical to the Prosecution's case and to the Trial Chamber's understanding of the issues raised in the Indictment",

**CONSIDERING** that the Trial Chamber's review of the summaries of the proposed witnesses confirms that their testimony is relevant to crimes and events alleged in the Amended Joinder Indictment of 27 May 2002, and that these witnesses do not appear to be providing evidence that is cumulative in nature,

**CONSIDERING** that as less than one month remains before the start of this trial, which is set to commence on 6 May 2003, and in order to ensure that no prejudice to any Accused will result from the addition of the three witnesses to the witness list at this stage of the proceedings, the Prosecution shall not call any of the three additional witnesses within the first month of the trial proceedings, without leave of the Trial Chamber and without having heard the Defence,

<sup>1</sup> Prosecution's Notice of Filing Revised and Updated Witness List and Rule 65 *ter* Summaries, filed under seal 31 March 2003.

<sup>2</sup> Prosecution's Amended, Redacted Witness Summaries Pursuant to Rule 65 *ter* (E)(ii), 8 November 2002.

<sup>3</sup> Decision on Prosecution's Second Motion for Leave to Amend Witness List, 20 March 2003; Decision on Prosecution's Motion for Leave to Supplement Witness List, 18 February 2003;

**REMINDING** the Prosecution of its disclosure obligations under Rule 66(A)(ii) of the Rules of the Tribunal,

**PURSUANT TO** Rules 65 *ter* and 73,

**HEREBY GRANTS** the Motion and **FURTHER ORDERS** that:

- 1) The Prosecution file a revised witness list by 17 April 2003, which shall include:
  - a) Whether the witness will testify *viva voce*;
  - b) Whether the witness is a proposed 92 *bis* (B) witness;
  - c) Whether the witness is a proposed 92 *bis* (D) witness;
  - d) Whether the witness is a proposed 94 *bis* witness;
  - e) Whether the witness testified in *Prosecutor v. Radislav Krstić* (Case No. IT-98-33-T); and
  - f) Recalling various decisions related to protective measures for witnesses who testified in *Prosecutor v. Radislav Krstić* and the ensuing obligation to ensure that the same degree of protection as the witnesses enjoyed in that case is provided in the current case,<sup>4</sup> whether the witness was granted protective measures pursuant to Rule 75 in *Prosecutor v. Radislav Krstić*, and if so, what form of protection; and
- 2) The Prosecution fulfil its obligations under Rule 66(A)(ii) in relation to the additional witnesses by 23 April 2003.

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

  
Judge Liu Daqun  
Presiding

Dated this sixteenth day of April 2003,  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

<sup>4</sup> Order for Protective Measures and Non-Disclosure to the Public, 18 February 2003; *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, Decision on Prosecution's Request to Disclose Closed Session Testimony and Under Seal Exhibits from Case No. IT-98-33-T, filed confidentially on 1 October 2001; *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Decision on Prosecution Request to Disclose, filed confidentially on 11 July 2002.