



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-T
Date: 23 May 2003
Original: English

IN TRIAL CHAMBER I, SECTION A

Before: Judge Liu Daqun, Presiding
Judge Volodymyr Vassilenko
Judge Carmen Maria Argibay

Registrar: Mr. Hans Holthuis

Decision of: 23 May 2003

PROSECUTOR

v.

**VIDOJE BLAGOJEVIĆ
DRAGAN JOKIĆ**

SCHEDULING ORDER

The Office of the Prosecutor:

Mr. Peter McCloskey

Counsel for the Accused:

Mr. Michael Karnavas and Ms. Suzana Tomanović for Vidoje Blagojević
Mr. Miodrag Stojanović and Ms. Cynthia Sinatra for Dragan Jokić

TRIAL CHAMBER I, SECTION A (“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”),

HAVING HEARD the accused Vidoje Blagojević (“Accused”) on the issue of assignment of counsel at the Pre-Trial Conference held on 5 May 2003,

NOTING the relevant Rules of Procedure and Evidence of the Tribunal (“Rules”) on the assignment of counsel, and particularly Rules 44 and 45 of the Rules,

NOTING the Directive of Assignment of Defence Counsel, as amended on 12 July 2002 (“Directive”),

NOTING the Code of Professional Conduct for Counsel Appearing before the International Tribunal (“Code of Conduct”),

NOTING that in accordance with the Directive, the Registrar appointed Michael Karnavas as lead counsel for the Accused on 31 August 2001, and Suzana Tomanović as co-counsel on 25 September 2002,

NOTING the “Decision on Oral Motion to Replace Co-Counsel,” issued by Trial Chamber II on 9 December 2002 (“Decision to Replace Co-Counsel”), in which the Trial Chamber found that no good cause had been shown to intervene in the Registrar’s decision to appoint Ms. Tomanović as co-counsel,

NOTING that the Accused informed Trial Chamber II at the Status Conference held on 27 March 2003 that he had an issue that was “still pending” related to counsel,¹ and that the issue of the assignment of counsel and co-counsel was further addressed at a hearing held in closed session on 27 March 2003 (“Hearing”),

NOTING that, in response to the comments of the Accused at the Hearing, the Pre-Trial Judge of Trial Chamber II affirmed his earlier finding that it is “for the Registrar to decide on the merits of this request” and that it was to “first decide on the replacement of Ms. Tomanović, [and] in case there is no such replacement, to decide on the replacement of the entire team,”²

¹ Status Conference, 27 March 2003, T. 125-26.

² *Id.* T. 172-73. (closed session).

NOTING the Decision of the Registrar of 8 April 2003 (“Registrar’s Decision”), in which he refused to withdraw the assignment of Ms. Tomanović as co-counsel and the Accused’s concomitant request to replace his entire legal defence team,

NOTING that no request was made by the Accused to the President to review the Registrar’s Decision in accordance with Article 19 (F) of the Directive,

NOTING that, pursuant to the comments made by the Accused on the issue of the assignment of his counsel at the Pre-Trial Conference, and particularly, the fact that there appears to be a breakdown in communication between the Accused and his defence team based on a lack of trust – for unspecified reasons – on the part of the Accused, the Trial Chamber requested that the Registrar appoint an independent legal counsel to advise the Accused on his rights in relation to the assignment of counsel, and to assist him in preparing documentation, if any, that may follow from their consultations on this issue,³

NOTING that on 21 May 2003, the Accused informed a representative of the Registry that he would be willing to meet with an independent legal counsel, for the purpose of obtaining legal advice in relation to the assignment of counsel,

NOTING that pursuant to the Trial Chamber’s Order and in accordance with the Rules, Directive and Code of Conduct, the Registrar appointed Mr. Jan Sjöcrona as independent counsel for the Accused on 23 May 2003 for the purpose of obtaining legal advice in relation to the assignment of counsel,

NOTING that the communication between Mr. Sjöcrona and the Accused, Mr. Blagojević shall be regarded as privileged, pursuant to Rule 97,

CONSIDERING that the Trial Chamber has the inherent power and duty to guarantee a fair trial and the proper administration of justice, as set forth in Articles 20 and 21 of the Statute of the Tribunal,⁴

CONSIDERING that the Trial Chamber deems that the issue of assignment or replacement of counsel, when raised as a matter of procedural fairness and proper administration of justice, is open to judicial scrutiny; difficulties relating to the defence of an accused will affect the conduct of a

³ Order on the Appointment of Independent Legal Counsel, 9 May 2003 (“Order”).

⁴ See, e.g., Decision to Replace Co-Counsel, p. 3; *Prosecutor v. Enver Hadžihasanović, Mehmed Alagić and Amir Kubura*, Case No. IT-01-47-PT, Decision on Prosecution’s Motion for Review of the Decision of the Registrar to Assign Mr. Rodney Dixon as Co-Counsel to the Accused Kubura, 26 March 2002.

case over which a Trial Chamber has not only the power but also the duty to regulate in accordance with the statutory requirements for a fair and expeditious trial; and that these problems, therefore, are justiciable,

RECALLING that, upon the start of the trial on 14 May 2003, the Trial Chamber informed the Accused that a further hearing could be held to discuss the issue of the assignment of his counsel after he has had an opportunity to consult with the independent counsel,⁵

CONSIDERING that the Trial Chamber finds that it is necessary to hear the Accused on the issue of assignment of counsel, and specifically his reasons for requesting the replacement of his lead and co-counsel, following any consultations between himself and Mr. Sjöcrona on this issue,

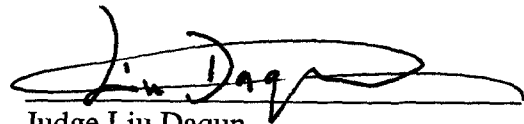
CONSIDERING that the Trial Chamber finds it necessary to hear the Accused on the issue of assignment of counsel in the absence of his assigned counsel, Mr. Karnavas and Ms. Tomanović,

PURSUANT to Articles 20 and 21 of the Statute of the Tribunal, and Rule 54 of the Rules of the Tribunal,

HEREBY ORDERS that an *ex parte* and closed session hearing shall be held with the Accused, represented by Mr. Sjöcrona, for the limited purpose of the discussion of the assignment of counsel on **Thursday, 29 May 2003 at 14:30** in Courtroom 2, and

REQUESTS that a representative of the Registry shall be present at the hearing.

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


Judge Liu Daqun
Presiding

Dated this twenty-third day of May 2003,
At The Hague
The Netherlands

[Seal of the Tribunal]

⁵ 14 May 2003, T.298.