

UNITED
NATIONS



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: 6 June 2003

Original: English

IT-02-60-T
D16893 - D16890
06 June 2003

16893

BQ

IN TRIAL CHAMBER I, SECTION A

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

Registrar: Mr. Hans Holthuis

Order of: 6 June 2003

PROSECUTOR

v.

**VIDOJE BLAGOJEVIĆ
DRAGAN JOKIĆ**

CONFIDENTIAL

ORDER TO LIFT CONFIDENTIALITY

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

Independent Counsel for Mr. Vidoje Blagojević

Mr. Jan Sjöcrona

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”),

BEING SEISED OF “Independent Counsel for Vidoje Blagojević’s Motion to Vidoje Blagojević’s Motion to Instruct Registrar to Appoint New Lead and Co-Counsel” (“Motion”) filed confidentially and on an *ex parte* basis on behalf of accused Vidoje Blagojević on 5 June 2003 by Mr. Jan Sjöcrona, independent counsel assigned to assist Mr. Blagojević on the issue of assignment of counsel (“Independent Counsel”),¹

NOTING that the Motion contains Attachments,² which are confidential communications addressed to, or having been written by, the Accused, and that those Attachments are referenced in detail in paragraphs 65-90 of the Motion,

NOTING that the Motion seeks that the Trial Chamber instruct the Registrar to appoint a new defence team to Mr. Blagojević, on the grounds that there is “no communication, no trust and therefore no proper prospect for continuation of the position of current lead and co-counsel on [Mr. Blagojević’s] defence team,”³

RECALLING the Scheduling Order of 23 May 2003, in which the Trial Chamber ordered that an *ex parte* and closed session hearing be held on 29 May 2003 to discuss the issue of the assignment of counsel to Vidoje Blagojević, with Mr. Blagojević, being present and represented at the hearing by Mr. Sjöcrona, as well as with representatives of the Registry,

NOTING that the *ex parte* and closed session hearing was held on 29 May 2003 (“Hearing”),

NOTING that certain filings and communications have been generated by the Trial Chamber, the Registry, and the Independent Counsel, including the Motion, as a result of the Hearing,

CONSIDERING that all parties to these proceedings are obligated not to disclosure confidential material to the public,

CONSIDERING that parties to the proceedings not present at the Hearing have an interest that is impacted by the matters discussed at the Hearing,

¹ See, Order for the Appointment of Independent Legal Counsel, 9 May 2003; Decision of the Registrar, 23 May 2003.

² The Motion concludes on page 12, and while there is not a divider thereafter, the Trial Chamber considers any documentation attached to the Motion beyond page 12 to be “Attachments”.

³ Motion, para. 94.

CONSIDERING that one party to the proceedings, namely the defence team assigned by the Registrar to Mr. Blagojević comprised of Mr. Michael Karnavas and Ms. Suzanna Tomanović, is directly impacted by the Trial Chamber's final decision on the Motion, and therefore needs to be informed of the Motion and all related material before the Trial Chamber when it makes its decision on the Motion,

CONSIDERING that at the Hearing, the Presiding Judge asked the Independent Counsel to file his motion on an *ex parte* basis, and informed the Independent Counsel that the Trial Chamber "will decide whether this filing should [be] disclosed to Mr. Karnavas or not," depending on its contents, stating that the initial response of the Trial Chamber was that Mr. Karnavas is entitled to be informed of the contents of the Hearing,⁴

CONSIDERING that based on the contents of the Motion, the Trial Chamber concludes that Mr. Karnavas has a right to be informed of the full content of the Motion and the Hearing, as well as all related filings and communications which form the basis of the Trial Chamber's Order of 2 June 2003, in order to file a response to the Motion,

CONSIDERING that based on the contents of the Motion, the Trial Chamber concludes that the Office of the Prosecutor has an interest in being informed of the Motion and the full content of the Hearing, in order to file a response as an "interested party" to the Motion, but that certain aspects of the Motion need not be provided to the Prosecution in order for it to file its Response as an interested party, namely paragraphs 65-90 of the Motion and the Attachments thereto,

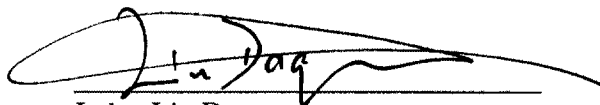
CONSIDERING that based on the contents of the Motion, the Trial Chamber concludes that the accused Dragan Jokić has an interest in being informed of the Motion and the full content of the Hearing, with the exception of those aspects of the Motion that relate directly to communications to and from Mr. Blagojević, namely paragraphs 65-90 of the Motion and the Attachments thereto, and that the accused Dragan Jokić has an interest in being informed of the status of the Trial Chamber's decision on the issue of assignment of counsel to Mr. Blagojević, as such a decision may impact on the right of Mr. Jokić to an expeditious trial *should* any delay in the trial proceedings result from the Trial Chamber's final decision on this issue,

⁴ 29 May 2003, T.769.

PURSUANT TO Rule 54 of the Rules of Procedure and Evidence of the Tribunal, **HEREBY ORDERS** that:

1. The Motion and transcript of the Hearing, and all related filings and communications, including those communications disclosed to the Trial Chamber and independent counsel through the 2 June 2003 Order be disclosed to Mr. Karnavas and Ms. Tomanović immediately;
2. The Motion, with paragraphs 65-90 having been redacted and without the Attachments, and the transcript of the Hearing be disclosed to the Office of the Prosecutor and Dragan Jokić immediately;
3. The *ex parte* and confidential nature of the transcript of the Hearing, the Motions and all related filing shall remain in relation to any former co-accused in this case and the public;
4. Mr. Karnavas and Ms. Tomanović shall file an *ex parte* and confidential Response to the Motion by 12 June 2003; and
5. The Office of the Prosecutor shall file an *ex parte* and confidential Response to the Motion by 12 June 2003.

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



Judge Liu Daqun
Presiding

Dated this sixth day of June 2003,
At The Hague
The Netherlands

[Seal of the Tribunal]