



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-01-47-PT  
Date: 17 June 2003  
Original: ENGLISH

**IN TRIAL CHAMBER II**

**Before:** Judge Wolfgang Schomburg, Presiding  
Judge Florence Ndepele Mwachande Mumba  
Judge Carmel Agius

**Registrar:** Mr. Hans Holthuis

**Decision of:** 17 June 2003

**PROSECUTOR**

v.

**ENVER HADŽIHASANOVIĆ  
AMIR KUBURA**

**DECISION ON URGENT MOTION FOR *EX PARTE* ORAL  
HEARING ON ALLOCATION OF RESOURCES TO THE DEFENCE  
AND CONSEQUENCES THEREOF FOR THE RIGHTS OF THE  
ACCUSED TO A FAIR TRIAL**

**The Office of the Prosecutor:**

Mr. Ekkehard Withopf  
Mr. David Re

**Counsel for the Accused Hadžihasanović and Kubura:**

Ms. Edina Rešidović and Mr. Stéphane Bourgon for Enver Hadžihasanović  
Mr. Fahrudin Ibrišimović and Mr. Rodney Dixon for Amir Kubura

**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 (“International Tribunal”),

**BEING SEIZED** of the “Urgent Defence Motion for *ex parte* Oral Hearing on Allocation of Resources to the Defence and Consequences Thereof for the Rights of the Accused to a Fair Trial”, filed on 10 April 2003, in which the Defence requests to be heard by the Trial Chamber on the issue of allocation of resources to the Defence during the pre-trial phase (“Motion”),

**NOTING** that this Chamber, upon a request of the Registrar of 14 March 2003, in a response of 27 March 2003, already indicated that it “does not see any reason to disagree with the ranking of the present case as decided by the Registrar and the consequent allocation of a maximum allotment of payments to the Defence counsel for the pre-trial stage”,

**NOTING** that, upon the request of the Trial Chamber, the Defence and the Registry filed further observations relating to the Legal Aid Payment System, as has been implemented by the Registry since 1 January 2001, on 6 May 2003 and 12 May 2003 respectively,

**NOTING** that, for purposes of the legal aid payment system, the present case is considered a Level 3 case, which is the highest level within this system,

**NOTING** that the Defence in its submission of 6 May 2003 emphasizes that “Level 3 is simply not sufficient to properly prepare this case for trial”,

**CONSIDERING** that the implementation of the legal aid payment system is a primary responsibility for the Registrar and that the Trial Chamber would only be called upon to act if the facts of the case would show that no reasonable Registrar could have acted in the way as was done in the present case,

**CONSIDERING** that the submissions of the Defence and the Registry do not lead to the conclusion that such a situation applies to the present case,

**CONSIDERING** that the Motion does not aim at discussing the application of the legal aid payment system as such to the present case, but rather at challenging the entire system in itself,

**CONSIDERING** that it is not for a Trial Chamber, in the context of a particular case, to take decisions leading to an alteration in the legal aid payment system, applicable to all cases pending before this Tribunal,

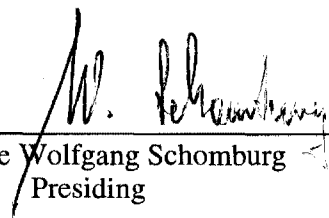
**CONSIDERING THEREFORE** that the Motion, both in relation to the application of the legal aid payment system to the present case and to the challenge of the system as such, should be considered inadmissible as it seeks a ruling by this Chamber which this Chamber can not give,

**CONSIDERING** that the Defence in its Motion requests the Trial Chamber to certify its decision for interlocutory appeal in case it would deny the Motion,

**HEREBY DISMISSES** the request for an *ex parte* oral hearing, **DENIES** the Motion as being inadmissible and **DENIES** therefore the request for certification.

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

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

  
\_\_\_\_\_  
Judge Wolfgang Schomburg  
Presiding

[Seal of the Tribunal]