



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: 18 June 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:** 18 June 2003

**PROSECUTOR**

v.

**VIDOJE BLAGOJEVIĆ  
DRAGAN JOKIĆ**

**CONFIDENTIAL**

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**DECISION ON PROSECUTION'S MOTION FOR A STAY OF  
PROCEEDINGS PENDING RESOLUTION OF THE ISSUE OF  
VIDOJE BLAGOJEVIĆ'S REPRESENTATION**

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**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”),

**BEING SEISED OF** the “Prosecution’s Motion for a Stay of Proceedings Pending Resolution of the Issue of Vidoje Blagojević’s Representation,” filed under seal on 17 June 2003 (“Motion”), in which the Office of the Prosecutor (“Prosecution”) seeks a stay in the trial proceedings in this case “until the issue of Mr. Blagojević’s representation has been addressed and finally resolved, not only by the Trial Chamber but also by the Appeals Chamber,”<sup>1</sup>

**NOTING** that in the Motion, the Prosecution has expressed concerns that: Mr. Blagojević’s right to a fair trial may be compromised if he continues to be represented by his current counsel which may constitute a ground for post-judgment appeal and may result in the need for a retrial of both Mr. Blagojević and co-accused Dragan Jokić;<sup>2</sup> if a new counsel is appointed to represent Mr. Blagojević, it is highly likely that any witness cross-examined by his current counsel would need to be recalled, which would not be in the interests of the witnesses;<sup>3</sup> Co-Accused Dragan Jokić “likely will also benefit from a brief stay” due to recent disclosures made to the defence;<sup>4</sup> and that a continued adjournment at this time is most likely to promote expedience and efficiency in the conduct of the trial proceedings, rather than “forg[ing] onward on the current record,”<sup>5</sup>

**NOTING** that due to the relief sought through the Motion, the Trial Chamber has determined that it must issue this decision on an expedited basis, and therefore has issued this decision before receiving any responses to the Motion,

**CONSIDERING** that both Accused in this case enjoy the right to a fair and expeditious trial under Articles 20 and 21 of the Statute of the Tribunal,

**CONSIDERING** that while the right to be tried without undue delay is one factor which the Trial Chamber must consider, a balance must be struck to ensure the right of both Accused to a fair trial,

**CONSIDERING** that in the Motion, good cause has been shown to stay the trial proceedings until the Trial Chamber has issued its decision on the motion pending before it related to the assignment of counsel to the accused, Vidoje Blagojević, namely “Independent Counsel for Vidoje

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<sup>1</sup> Motion, para. 5.

<sup>2</sup> *Id.*, para. 6.

<sup>3</sup> *Id.*, paras 7-8.

<sup>4</sup> *Id.*, para. 9.

<sup>5</sup> Motion, para. 10.

Blagojević's Motion to Instruct Registrar to Appoint New Lead and Co-Counsel," filed on an *ex parte* and confidential basis on 5 June 2003 ("Independent Counsel's Motion"),

**NOTING** that the reply of the Independent Counsel to the three Responses to the Independent Counsel's Motion<sup>6</sup> is due on 27 June 2003,

**CONSIDERING** that, upon receiving and considering the Independent Counsel's reply, the Trial Chamber shall issue its written decision on the Independent Counsel's Motion forthwith,


**CONSIDERING** that it is premature to speculate about the *possible* effect of the Trial Chamber's decision on the Independent Counsel's Motion upon the trial proceedings at this stage,

**CONSIDERING** that it is premature to speculate about *possible* appellate proceedings emanating from the Trial Chamber's decision on the Independent Counsel's Motion at this stage,

**PURSUANT TO RULE 54** of the Rules of Procedure and Evidence of the Tribunal,

**HEREBY GRANTS THE MOTION, IN PART** and **ORDERS** that the adjournment of trial proceedings continues until 7 July 2003, upon which time the Prosecution shall continue with its presentation of evidence.

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

  
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 Judge Liu Daqun  
 Presiding

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

[Seal of the Tribunal]

<sup>6</sup> Motion [Response] of the Registrar, filed on an *ex parte* and confidential basis on 11 June 2003; Prosecution's Response to Independent Counsel for Vidoje Blagojević's Motion to Instruct Registrar to Appoint New Lead and Co-Counsel, filed on an *ex parte* and confidential basis on 12 June 2003 ("Prosecution's Response"); and Counsel's and Co-Counsel's Response to the Motion by Independent Counsel, filed on an *ex parte* and confidential basis on 16 June 2003. The Trial Chamber notes that while the Prosecution's Response submits that "it is advisable to err on the side of caution and assign new counsel to Mr. Blagojević before proceeding with the trial" and that in the case of replacement of counsel, "a brief recess of no more than three months would be sufficient," until the current Motion was filed, no party had sought a stay in the trial proceedings pending a decision by the Trial Chamber on the Independent Counsel's Motion.