

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-02-60/1-S
Date: 10 October 2003
Original: English

IT-02-60/1-S
D 400 - D 397
10 OCTOBER 2003

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IN TRIAL CHAMBER I, SECTION A

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

Registrar: Mr. Hans Holthuis

Order of: 10 October 2003

PROSECUTOR

v.

MOMIR NIKOLIĆ

**ORDER SUMMONING MIROSLAV DERONJIĆ
TO APPEAR AS A WITNESS OF THE TRIAL CHAMBER
PURSUANT TO RULE 98**

The Office of the Prosecutor:

Mr. Peter McCloskey

Counsel for the Accused:

Mr. Veselin Londrović and Mr. Stefan Kirsch for Momir Nikolić

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”),

NOTING that a Trial Chamber, pursuant to Rule 98 of the Rules of Procedure and Evidence (“Rules”), “may *proprio motu* summon witnesses and order their attendance,”

NOTING that on 30 September 2003, Miroslav Deronjić pled guilty to one count of Persecutions as a Crime Against Humanity, pursuant to Article 5(h) of the Statute of the Tribunal, in the case *Prosecutor v. Miroslav Deronjić*, Case No. IT-02-61-PT (“*Deronjić Case*”),¹

NOTING that the Second Amended Indictment in the *Deronjić Case* focused on crimes committed in the Bratunac Municipality in Bosnia and Herzegovina in May 1992,

NOTING that in the “Statement of Facts and Acceptance of Responsibility,” of Momir Nikolić, the Accused, Mr. Nikolić attests to having attended a meeting with, among others, “M. Deronjić (the civilian commissioner appointed by Karadžić to deal with the Muslim civilians)”, on the night of 13 July 1995, at which the Muslim prisoners and “the killing operation” were discussed,² and that through Mr. Nikolić’s testimony in Case No. IT-02-60-T, *Prosecutor v. Vidoje Blagojević and Dragan Jokić* (“*Blagojević Case*”), it was confirmed that “M. Deronjić” is Miroslav Deronjić,

NOTING that the Prosecution in the *Blagojević Case* has indicated that it will be calling Miroslav Deronjić as a witness,³ and as part of its disclosure obligations, it had informed the Defence in that case that in interviews with the Prosecution, Miroslav Deronjić makes reference to the meeting held

¹ *The Prosecutor v. Miroslav Deronjić*, Case No. IT-02-61-PT, Plea Hearing, 30 September 2003, Transcript page (“T.”) 83: “Judge Schomburg: “Madam Registrar, may we take to the record that the accused has pleaded guilty to persecutions, a crime against humanity, as set out in the Second Amended Indictment.” See also, *The Prosecutor v. Miroslav Deronjić*, Case No. IT-02-61-S, Scheduling Order, 3 October 2003: “Noting that during the Status Conference that was held on 30 September 2003, the Trial Chamber entered a finding of guilt of the Accused Miroslav Deronjić, based merely on the Accused’s guilty plea and the agreed factual basis.”

² Statement of Facts and Acceptance of Responsibility, page 6, para. 10 in part: “At that time the Bratunac town was overcrowded with Muslim prisoners that had been brought from the area of the Milici-Bratunac road. It was late at night and there was insufficient transportation to move these prisoners to Zvornik. This created an unstable situation around Bratunac town. To deal with this situation, Colonel Beara, M. Deronjić (the civilian commissioner appointed by Karadžić to deal with the Muslim civilians), Dragomir Vasić and myself met in the SDS office in Bratunac. Deronjić was concerned that the prisoners in the town created a security risk and did not want the killing of these prisoners to be carried out in and around Bratunac. The killing operation was openly discussed at the meeting and all participants indicated that they had been reporting to their various chains of command. Logistic, transportation and security support was also discussed. It was decided at the meeting that the Muslim men in and around Bratunac should be continued to be guarded by elements of the Bratunac Brigade Military Police, various civilian MUP forces and armed volunteers from Bratunac town. The meeting ended at 00:30 hrs.”

³ *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-T, Trial Proceedings, 30 September 2003, T. 2312.

on 13 July 1995, and that according to the parties in that case, from the interviews, it is not clear whether Mr. Nikolić was present at the meeting held on the night of 13 July 1995,⁴

NOTING that the Prosecution has given copies of all interviews between Miroslav Deronjić and the Prosecution to the Trial Chamber upon its request,

CONSIDERING that upon review of these interviews, the Trial Chamber finds that there is an open question about the presence of Momir Nikolić at the meeting held on the night of 13 July 1995,

CONSIDERING that as part of the Plea Agreement signed by the parties to the proceedings in the *Deronjić* Case, Miroslav Deronjić agreed "to testify truthfully in any trials, hearings and proceedings before the Tribunal where the Prosecutor deems his evidence may be relevant, whether those matters are presently before the Tribunal or may be in the future,"⁵

CONSIDERING Rule 98 of the Rules permits a Trial Chamber to call a witness should it deem that person's testimony to be relevant to a matter presently before it,

CONSIDERING that the testimony of Miroslav Deronjić will assist the Trial Chamber in clarifying an issue that appears to be open in relation to Momir Nikolić, and will assist the Trial Chamber is assessing the extent of Mr. Nikolić's co-operation with the Prosecution,

PURSUANT TO RULE 98 OF THE RULES,

HEREBY ORDERS Miroslav Deronjić to appear as a witness before the Trial Chamber at the Sentencing Hearing of Momir Nikolić on Tuesday, 28 October 2003,⁶

STATES that the testimony of Miroslav Deronjić shall, *inter alia*, cover:

1. Persons present and issues discussed at the meeting held in his office on the night of 13 July 1995; and
2. All meetings he attended on 13 or 14 July 1995 at which Momir Nikolić was present, and the issues discussed.

FURTHER STATES that Miroslav Deronjić shall first make a spontaneous statement and that, although he may assist himself by relying on notes, he should not read a prepared statement; and

⁴ *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-T, Trial Proceedings, 1 October 2003, T. 2315-17.

⁵ *The Prosecutor v. Miroslav Deronjić*, Case No. IT-02-61-PT, Filing of Documents in Preparation for Status Conference: Plea Agreement, signed 29 September 2003 and filed on 30 September 2003, para. 12 in part.

⁶ See, Scheduling Order, 6 October 2003, setting the dates for the Sentencing Hearing of Mr. Nikolić as 27-28 October 2003.

following any questions by the Judges, the Parties shall each have an opportunity to put their questions to him,

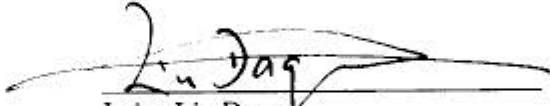
ORDERS that the scope of the questions asked by the Prosecutor and the Defence shall be limited to the scope of Miroslav Deronjić's statement and the Judges' questions, with the Trial Chamber reserving for itself the right to settle any dispute in that respect,

REQUESTS the assistance of representatives of the Registry of the Tribunal in arranging for the presence of Miroslav Deronjić at the Sentencing Hearing on 28 October 2003,

FURTHER REQUESTS that representatives of the Registry of the Tribunal make this Order available to the Trial Chamber and all parties in the *Deronjić* Case, and

REQUESTS the assistance of the Prosecution in providing Defence Counsel for Momir Nikolić with all former statements of Miroslav Deronjić.

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



Judge Liu Daqun
Presiding

Dated this tenth day of October 2003,
At The Hague
The Netherlands

[Seal of the Tribunal]