



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: 10 June 2004
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: 10 June 2004

PROSECUTOR

v.

**VIDOJE BLAGOJEVIĆ
DRAGAN JOKIĆ**

**DECISION ON PROSECUTION'S MOTION FOR LEAVE TO
FILE FOURTH AMENDED JOINDER INDICTMENT**

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 Mr. Branko Lukić 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 “Prosecution’s Motion for Leave to File Fourth Amended Joinder Indictment,” filed on 14 May 2004 (“Motion”) by the Office of the Prosecutor (“Prosecution”), in which the Prosecution seeks to amend the charge against Vidoje Blagojević from complicity in genocide under Article 4(3)(e) of the Statute, set out in Count 1B of the Indictment,¹ to genocide under Article 4(3)(a) of the Statute, but limiting the Article 7(1) mode of liability for that charge to aiding and abetting,²

NOTING the Response filed on behalf of the Accused Vidoje Blagojević,³ in which the Defence objects to the Motion and argues *inter alia* that at this stage of the proceedings, granting the amendment would “undoubtedly” prejudice the Accused unfairly and Mr. Blagojević’s right to a fair trial would be infringed,

NOTING the Reply filed by the Prosecution on 3 June 2004⁴ and the submissions therein,

NOTING that a hearing was held on 8 June 2004 under Rule 50 during which the Parties⁵ were invited to expand on their written submissions and asked to respond to questions put forward by the Trial Chamber,

CONSIDERING that the Prosecution submits in the Motion that the proposed amendment is in the interests of justice in light of the findings of the Appeals Chamber in the Judgement it rendered in the case *Prosecutor v. Radislav Krstić*⁶ in relation to *inter alia* the relationship between Article 4(3) and Article 7(1) of the Statute, and the relationship between complicity in genocide under Article 4(3)(e) of the Statute and aiding and abetting in genocide under Article 4(3)(a) and Article 7(1) of the Statute,⁷

¹ *Prosecutor v. Vidoje Blagojevic and Dragan Jokić*, Case No. IT-02-60-T, Amended Joinder Indictment, 26 May 2003.

² See also, Corrigendum to Prosecution’s Motion for Leave to File Fourth Amended Joinder Indictment, 26 May 2004.

³ Vidoje Blagojević’s Response to Prosecution’s Motion for Leave to File Fourth Amended Joinder Indictment, 26 May 2004.

⁴ Prosecution’s Reply to Defence Response to Prosecution Motion for Leave to File Fourth Amended Joinder Indictment, 3 June 2004 (“Reply”).

⁵ The Trial Chamber notes that while the proposed amendment does not affect any of the counts brought against the Accused Dragan Jokić, the Defence of Dragan Jokić was invited to make submissions at the hearing.

⁶ *Prosecutor v. Radislav Krstić*, Case No. IT-980-33-A, Appeal Chamber Judgement, 19 April 2004.

⁷ See, Motion, paras 2-6.

CONSIDERING FURTHER that the Prosecution submits that if the amendment were not granted, it can and will continue with the case on the existing Indictment,⁸

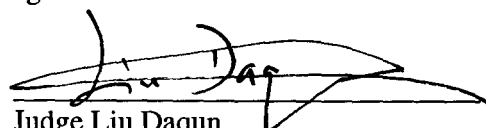
CONSIDERING that the Defence for the Accused Vidoje Blagojević maintains that if the amendment were granted, due to both the timing of the proposed amendment and the substantive effect of the proposed amendment, Mr. Blagojević would suffer prejudice,

FINDING that at this stage of the proceedings, the proposed amendment is not in the interests of justice,

PURSUANT TO Rule 50 of the Rules of Procedure and Evidence of the Tribunal,

HEREBY DISMISSES the Motion.

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



Judge Liu Daqun
Presiding

Dated this tenth day of June 2004,
At The Hague
The Netherlands

[Seal of the Tribunal]

⁸ Motion, para. 9; Reply, paras 11-12.