



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-05-86-I
Date: 24 March 2005
Original: English

THE CONFIRMING JUDGE

Before: Judge Liu Daqun

Registrar: Mr. Hans Holthuis

Decision of: 24 March 2005

PROSECUTOR

v.

**VINKO PANDUREVIĆ
[REDACTED]**

**DECISION ON REVIEW OF INDICTMENT
AND ORDER FOR NON-DISCLOSURE**

Office of the Prosecutor:

Carla del Ponte

I, **DAQUN LIU**, Presiding judge of Trial Chamber I (“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”);

NOTING the indictment against Radislav Krstić, Vidoje Blagojević and Vinko Pandurević confirmed on 27 October 1999;¹

NOTING the Decision of the President assigning the case against the accused Vinko Pandurević to Trial Chamber III in December 2004;

NOTING the confidential and *ex-parte* Prosecution’s application for consideration by the Bureau under Rule 28(A) of the Rules of Procedure and Evidence of an indictment against Vinko Pandurević and [REDACTED] dated 15 December 2004;

NOTING the confidential and *ex-parte* Prosecution’s application for re-consideration of the presentation of an indictment against Vinko Pandurević and [REDACTED] attached to the application and dated 10 February 2005 before the President of the Tribunal for the Bureau to authorise the Prosecutor to amend the indictment against the accused Pandurević to include [REDACTED] and send that indictment to a Trial Chamber for confirmation;

NOTING the confidential and *ex-parte* clarification of request for re-consideration of the presentation of an indictment against Vinko Pandurević and [REDACTED] dated 3 March 2005 before the President of the Tribunal for the President to approve the indictment for confirmation review before a Trial Chamber;

NOTING the confidential memorandum of the President dated 23 March 2005 advising that the Bureau approved the indictment against Vinko Pandurević and [REDACTED] for confirmation review;

NOTING the Decision of the President re-assigning the case against the accused Vinko Pandurević to Trial Chamber II filed on 23 March 2005;

NOTING the oral decision of the President assigning me to the confirmation of the indictment against the accused Vinko Pandurević and [REDACTED];

NOTING the Prosecution’s Motion for Confirmation of Amended Indictment filed on 24 March 2005 whereby the Prosecution seeks (1) confirmation of the Indictment against Vinko Pandurević and [REDACTED] dated 10 February 2005, (2) that upon confirmation, the Confirming Judge

¹ Krstić and Blagojević were tried and convicted by Trial Chamber I.

issue an order that there be no public disclosure of the supporting material until further order, and (3) that pursuant to Rules 55 to 59 *bis* of the Rules, the Confirming Judge issue a Warrant of Arrest and Order for Surrender of the accused [REDACTED] addressed to the Authorities of any member State of the United Nations, under whose jurisdiction the accused resides, or last known to be, or it is believed by the Prosecutor to be likely found;

CONSIDERING that Article 19 of the Statute of the International Tribunal (“Statute”) requires a Judge to whom an indictment has been transmitted to review it and, if “satisfied that a *prima facie* case has been established by the Prosecutor”, to confirm the indictment;

NOTING that the Indictment contains charges against the accused Pandurević which are not new and have been confirmed on 27 October 1999 upon the finding of a *prima facie* case;

NOTING that the accused Pandurević was transferred to the custody of the International Tribunal on 23 March 2005 and that his initial appearance will be held on 30 March 2005;

NOTING that the Indictment dated 10 February 2005 contains new charges in that it (1) includes charges against [REDACTED], for his alleged involvement in crimes in Eastern Bosnia after the fall of the Srebrenica United Nations “Safe Area” in July 1995, (2) includes a charge of Conspiracy to Commit Genocide against Vinko Pandurević and, (3) charges both Vinko Pandurević and [REDACTED] with two counts of murder of Bosnian Muslim men captured after the fall of the Srebrenica enclave;

CONSIDERING that only those new charges against Vinko Pandurević and [REDACTED] will be reviewed for confirmation;

CONSIDERING that although the Bureau confirmed a procedure in which I shall act as a confirming judge in relation to charges against [REDACTED] and as a reviewing judge in relation to the amendments to the charges against the accused Pandurević,² it nevertheless remains unacceptable that an accused before this Tribunal be indicted for the same set of facts in two distinct indictments; that it is in the interests of justice to ensure that if this Indictment of 10 February 2005 is confirmed, the original indictment of 1999 against Pandurević be withdrawn;

CONSIDERING that Rule 47 requires a Judge to examine each of the counts in the indictment and any supporting material the Prosecutor may provide to determine, applying the standard in Article 19, whether a case exists against the suspect;

² The appropriate way to proceed in this case was for the Trial Chamber seized of the case against the accused Pandurević to move for the indictment of 1999 to be amended and make a separate request before the Bureau for authorisation to indict [REDACTED].

NOTING that in the Indictment, [REDACTED]; that it is also alleged that, in addition to the charges already confirmed on 27 October 1999, Vinko Pandurević committed Conspiracy to Commit Genocide and participated in the crimes against humanity committed by [REDACTED];

CONSIDERING that I have carefully examined the relevant counts and considered the supporting material provided by the Prosecutor, including indictment proof chart, the statements and interview protocols of witnesses, whom are survivors and eye-witnesses of the charged crimes;

CONSIDERING that on the basis of the material submitted by the Prosecutor a *prima facie* case against [REDACTED] and Vinko Pandurević in respect of the crimes with which they are charged in the Indictment has been established;

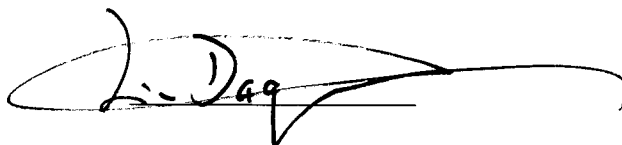
PURSUANT to Article 19 of the Statute and Rules 47, 53 *bis*, 54, 55 and 59 *bis* of the Rules;

HEREBY CONFIRM the Indictment and **ORDER** that:

1. there shall be no public disclosure of the supporting material until further order;
2. the Prosecution shall withdraw the original indictment dated 1999 against the accused Pandurević;
3. this Indictment be served to the accused Pandurević as soon as practicable;
4. that the arrest warrant and order for surrender of [REDACTED] attached to this Indictment be appropriately served.

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

Dated this twenty-fourth day of March 2005
At The Hague,
The Netherlands



Judge Liu Daqun

Judge of the International
Criminal Tribunal for the
Former Yugoslavia

[Seal of the Tribunal]