

**UNITED
NATIONS**



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

Case No. IT-02-60-A
Date: 10 November 2005
Original: English

BEFORE THE APPEALS CHAMBER

Before: Judge Theodor Meron, President
Judge Fausto Pocar
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Andréia Vaz

Registrar: Mr. Hans Holthuis

Decision: 10 November 2005

THE PROSECUTOR

v.

**Vidoje BLAGOJEVIĆ
Dragan JOKIĆ**

**DECISION ON PROSECUTION MOTION FOR CLARIFICATION OF MATTERS
CONTAINED IN DRAGAN JOKIĆ'S APPEAL BRIEF**

Counsel for the Prosecutor:

Mr. Norman Farrell
Mr. Peter McCloskey

Counsel for the Appellants:

Mr. Vladimir Domazet for Mr. Vidoje Blagojević
Ms. Cynthia Sinatra for Mr. Dragan Jokić

Case No.: IT-02-60-A

10 November 2005

THE APPEALS 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 Request for Leave to Amend Notice of Appeal Relating to Dragan Jokić (“Request to Amend”), filed by Dragan Jokić (“Appellant”) on 6 September 2005;

NOTING the Appeal Brief of Dragan Jokić, filed on 4 October 2005 (“Appeal Brief”);

BEING SEIZED OF the Prosecution Motion for Clarification of Matters Contained in Jokić’s Appeal Brief, filed on 7 October 2005 (“Prosecution Motion”), in which the Prosecution contends that the Appeal Brief is in several respects vague, confusing, and inconsistent with the Practice Direction on Formal Requirements for Appeals from Judgement, and requests *inter alia* that the Appellant file a chart clarifying how each paragraph in the Appeal Brief relates to the original notice of appeal and the requested revisions to the notice of appeal;

NOTING the Decision on Dragan Jokić’s Request to Amend Notice of Appeal, issued on 14 October 2005, in which the Appeals Chamber stated that the Request to Amend did not identify or justify the amendments the Appellant sought, and dismissed it without prejudice to the Appellant’s right to file a clarified request;

NOTING the Motion to Clarify Request to Amend Dragan Jokić’s Notice of Appeal (“Jokić’s Motion to Clarify”), filed on 18 October 2005, in which the Appellant, *inter alia*, withdraws certain grounds of appeal;

NOTING the Corrigendum to Appeal Brief of Dragan Jokić (“Corrigendum”), filed on 19 October 2005, which clarifies, *inter alia*, that the Appeal Brief does not include responses to the Prosecution’s appeal;

NOTING the Response to Prosecution Motion for Clarification of Matters Contained in Jokić’s Appeal Brief (“Response”), filed by the Appellant on 19 October 2005, which includes a chart showing the paragraphs in the original notice of appeal to which the various

sections of the Appeal Brief correspond, and which also partially clarifies the identity of an exhibit appended to the Appeal Brief;

NOTING that the Response was filed two days outside of the ten days allowed for filing a response to a motion filed during an appeal from judgement,¹ and includes no argument as to why there is good cause for the delay;

CONSIDERING, however, that the contents of the Response assist the Prosecution and the Appeals Chamber by clarifying certain matters, and that to the extent that the Response provides part of the relief requested by the Prosecution, rejecting it as untimely and then ordering that same relief would be a waste of time and resources;

CONSIDERING, therefore, that, in the interests of justice, the Response should be accepted as validly filed;

NOTING the Prosecution Reply to Response to Motion for Clarification of Matters Contained in Jokić's Appeal Brief, filed on 25 October 2005, in which the Prosecution contends that the information provided by the various filings of the Appellant are inadequate to provide the clarification sought;

CONSIDERING that Jokić's Motion to Clarify, the Corrigendum, and the Response clarify many of the matters on which the Prosecution Motion requests clarification;

CONSIDERING that the request of the Prosecution for a chart showing how the Appeal Brief sections correspond to the amended notice of appeal is not well founded at this time, since the Appeals Chamber has not yet decided whether to grant some or all of the amendments sought;

CONSIDERING that the Prosecution remains free to argue in its response brief that certain portions of the Appeal Brief are not founded in the notice of appeal, and that the Appellant may then answer these arguments in his reply brief, and that it is inappropriate for the Appeals

¹ Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the International Tribunal, (IT/155/Rev. 3), 16 September 2005, para. 13.

Chamber to request at this point separate briefing concerning the justification for including each argument in the Appeal Brief;

HEREBY DISMISSES the Prosecution Motion.

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

Dated 10 November 2005
At The Hague
The Netherlands



Judge Theodor Meron
Presiding

[Seal of the Tribunal]