

UNITED
NATIONS

IT-02-53-AR65
A37/114 bis
28 MAY 2002

3/114 bis
Bj



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: IT-02-53-AR65

Date: 28 May 2002

Original: French

IN THE APPEALS CHAMBER

Before: Judge Claude Jorda, Presiding
Judge David Hunt
Judge Mehmet Güney
Judge Asoka de Zoysa Gunawardana
Judge Theodor Meron

Registrar: Mr Hans Holthuis

Decision of: 28 May 2002

PROSECUTOR

v

Vidoje BLAGOJEVIĆ
Dragan OBRENOVIĆ
Dragan JOKIĆ

DECISION ON MOTION TO PRESENT ADDITIONAL EVIDENCE

Counsel for the Prosecutor:

Mr Norman Farrell
Mr Peter McCloskey

Counsel for the Applicant:

Mr Miodrag Stojanović and Ms Cynthia Sinatra for Dragan Jokić

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,

NOTING the "Motion to Present Additional Evidence Pursuant to Rule 115", filed on 3 May 2002, whereby the Defence applies to present additional evidence before the Appeals Chamber and to be allowed to seek further guarantees from the Government of Bosnia and Herzegovina;

NOTING that Article 115 of the Rules of Procedure and Evidence ("Rules") provides that "[a] party may apply by motion to present before the Appeals Chamber additional evidence which was not available to it at trial";

CONSIDERING that, pursuant to Rule 115, the moving party must demonstrate that the additional material proffered was not available at the trial and that the evidence could not have been discovered through the exercise of due diligence;¹

NOTING that the additional material sought to be admitted consists of a letter from the President of the Government of the Republika Srpska;

CONSIDERING that the Appellant failed to establish that the evidence could not have been obtained through the exercise of due diligence at the time of the application for provisional release;

HEREBY DISMISSES the motion.

¹ *Prosecutor v. Hazim Delić*, IT-96-21-R-R119, Decision on Motion for Review, 25 Apr 2002, par 10; *Prosecutor v. Tadić*, IT-94-1-A, Decision on Appellant's Motion for the Extension of the Time Limit and Admission of Additional Evidence, 15 Oct 1998 ("*Tadić* Rule 115 Decision"), pars 35-45; *Prosecutor v. Kupreškić et al.*, IT-95-16-A, Appeal Judgement, 23 Oct 2001 ("*Kupreškić* Appeal Judgement"), par 50.

1/114 bis

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

Dated this 28th day of May 2002,
At The Hague,
The Netherlands.

[signed]

Judge Claude Jorda
Presiding Judge

[Seal of the Tribunal]