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BQ

IT-02-60-T  
D 20677 - D 20675  
16 DECEMBER 2003

Case No. IT-02-60-T

*Prosecutor v. Blagojević et. al.*

## DECISION

## THE DEPUTY REGISTRAR,

**CONSIDERING** the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993), and in particular Article 21 thereof;

**CONSIDERING** the Rules of Procedure and Evidence as adopted by the Tribunal on 11 February 1994, as subsequently amended, and in particular Rules 44 and 45 thereof;

**CONSIDERING** the Directive on Assignment of Defence Counsel, ("the Directive"), as adopted by the Tribunal on 28 July 1994, as subsequently amended;

**CONSIDERING** the Code of Professional Conduct for Defence Counsel Appearing before the International Tribunal ("the Code of Conduct");

**CONSIDERING** the *Order on Appointment of Independent Legal Counsel* ("the Order") issued by Trial Chamber seized of the case ("the Trial Chamber") on 9 May 2003;

**CONSIDERING** that after considering the request of the Accused, Mr. Michael Karnavas was assigned by the Registrar to represent Mr. Vidoje Blagojević ("the Accused") as of 31 August 2001;

**CONSIDERING** that at the request of lead counsel, and in accordance with Article 16 (C) of the Directive, the Registrar assigned Ms. Suzana Tomanović as co-counsel on 25 September 2002;

**CONSIDERING** that at a Status Conference convened on 27 November 2002, the Accused informed the Pre-Trial Judge that he did not wish his case to proceed with Ms. Suzanna Tomanović acting as his co-counsel, insisted that Ms. Tomanović had not been selected according to his wishes and requested that a new co-counsel of his choosing be assigned to work with his lead counsel Mr. Michael Karnavas;

**CONSIDERING** the *Decision on Oral Motion to Replace Co-Counsel*, issued on 9 December 2002, in which the Trial Chamber found that both lead counsel and co-counsel had been assigned by the Registrar in accordance with the relevant rules, that there were no other factors either presented by the Accused or observed by the Trial Chamber after hearing the parties that would constitute good cause for the withdrawal of co-counsel, and therefore upheld the Registry's decision assigning Ms. Tomanović as co-counsel, denied the Accused's oral motion, and determined that Ms. Tomanović could continue as co-counsel;

**CONSIDERING** that at the Status Conference held on 27 March 2003, the Accused again raised concerns regarding his defence team, restated his request to have Ms. Tomanović withdrawn as co-counsel and expressed a lack of confidence in his lead counsel, stemming from Mr. Karnavas' refusal to abide by his wishes concerning the selection of co-counsel;

**CONSIDERING** that on 8 April 2003, the Registry issued a decision ("the Decision of the Registrar"), denying both the Accused's request to withdraw the assignment of co-counsel and his alternate request to replace his entire legal defence team, on the bases that no significant change in circumstances had taken place since the *Decision On Oral Motion To Replace Co-Counsel* issued by the Trial Chamber on 9 December 2002, that no prejudice would be incurred by the Accused by maintaining Ms. Tomanović as co-counsel, and that to replace co-counsel at this point in the proceedings might cause prejudice to the Accused by delaying proceedings and thereby infringing his right to be tried expeditiously;

**CONSIDERING** that after the appearances of counsel on the record at the Pre-Trial Conference held on 5 May 2003 ("the Pre-Trial Conference"), the Accused stated that he had "no confidence in Mr. Karnavas and it would be a catastrophe for him to continue to represent me in this case and to defend me."

**CONSIDERING** that in the aforementioned Order of 9 May 2003, the Trial Chamber confirmed that the present defence team would continue to work on behalf of the Accused, and requested that the Registrar appoint independent counsel to advise the Accused on his rights in relation to assignment of counsel, and assist him in preparing documentation, if any, that may follow from their consultation on this issue;

**CONSIDERING** that on 23 May 2003, Mr. Karnavas informed the Registry in writing that he would have no objection to an independent legal counsel meeting with the Accused in his absence, for this purpose;

**CONSIDERING** the assignment of 23 May 2003 of Mr. Jan Sjöcrona, attorney at law from The Hague, as independent legal counsel, for the purpose of advising the Accused on his rights in relation to assignment of counsel, and assisting him in preparing documentation, if any, that may follow from their consultations on this issue.

**CONSIDERING** that the Accused moved to instruct the Registrar to appoint new lead and co-counsel and that on 3 July 2003, the Trial Chamber refused his motion to direct the Registrar to withdraw his current counsel and appoint new counsel after taking into consideration his views as to who should represent him;

**CONSIDERING** that the Accused appealed the Trial Chamber decision and that in the *Decision on Appeal by Vidoje Blagojević to Replace his Defence Team*, 15 September 2003, the appeal was rejected on the grounds that the Accused's resistance to legal representation from assigned counsel was unjustifiable and that assigned counsel's professional obligations to represent the Accused remained;

**CONSIDERING** that the Accused has exhausted all avenues available to him in respect of his objection to assigned counsel;

**CONSIDERING** further that the mandate of independent counsel foreseen by the Registrar, in particular, advising the Accused on his rights in relation to assignment of counsel, and assisting him in preparing documentation, if any, that may follow from their consultations on this issue has been fulfilled;

**DECIDES** to withdraw Mr. Sjöcrona as independent counsel to the present case, effective as of the date of this decision.

  
David Robert  
Deputy Registrar  


Done this fifteenth day of December, 2003  
The Hague  
The Netherlands