



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-PT
Date: 19 November 2002
Original: ENGLISH

IN TRIAL CHAMBER II

Before: Judge Wolfgang Schomburg, Presiding
Judge Florence Ndepele Mwachande Mumba
Judge Carmel Agius

Registrar: Mr. Hans Holthuis

Decision of: 19 November 2002

PROSECUTOR

v.

**VIDOJE BLAGOJEVIĆ
DRAGAN OBRENOVIĆ
DRAGAN JOKIĆ
MOMIR NIKOLIĆ**

**DECISION ON DRAGAN OBRENOVIĆ'S
APPLICATION FOR PROVISIONAL RELEASE**

The Office of the Prosecutor:

Mr. Peter McCloskey

Counsel for the Accused:

Mr. Michael Karnavas, Ms. Suzana Tomanović for Vidoje Blagojević
Mr. David Wilson, Mr. Dušan Slijepčević for Dragan Obrenović
Mr. Miodrag Stojanović, Ms. Cynthia Sinatra for Dragan Jokić
Mr. Veselin Londrović, Mr. Stefan Kirsch for Momir Nikolić

THIS 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 ("International Tribunal"),

NOTING the decision of the Appeals Chamber¹ to quash two decisions of this Trial Chamber in which the accused Dragan Obrenović² ("Accused" or "Defence") and Vidoje Blagojević³, were denied provisional release,

NOTING that the matter has been returned to this Trial Chamber for reconsideration and that the Chamber "is directed to take into account the guarantees of the Republika Srpska when determining whether the accused would appear for trial if provisionally released",⁴

NOTING that the Scheduling Order of 8 October 2002 establishes a schedule for the Defence and the Prosecution to file written submissions on the question of provisional release,

NOTING the "Accused Obrenović's Supplemental Response on the Issue of Provisional Release" ("Accused's Response") filed on 28 October 2002,

NOTING the consolidated response filed by the Office of the Prosecutor ("Prosecution") on 12 November 2002, "Prosecution's Consolidated Response Pursuant to the Trial Chamber's Scheduling Order of 8 October 2002 Concerning Provisional Release of Vidoje Blagojević and Dragan Obrenović" with Annexes, ("Prosecution's Response"),

NOTING that the Prosecution's Response draws attention to recent events in the Republika Srpska,

CONSIDERING that the decision taken by the Trial Chamber to deny the request for provisional release was independent of the guarantees provided by the authorities which gave them,⁵

CONSIDERING FURTHER that the decision taken by the Trial Chamber to deny the request for provisional release was based *de facto* solely on the fact that the Trial Chamber was "not satisfied that, if released, Mr. Obrenović would appear for trial",⁶ and also on the fact that the Trial Chamber

¹ *Prosecutor v. Vidoje Blagojević et al.*, Case No. IT-02-60-AR65 and IT-02-60-AR65.2, Decision on Provisional Release of Vidoje Blagojević and Dragan Obrenović, 3 October 2002 ("Appeals Chamber Decision").

² Decision on Dragan Obrenović's Application for Provisional Release, 22 July 2002, ("Trial Chamber Decision").

³ Decision on Vidoje Blagojević's Application for Provisional Release, 22 July 2002.

⁴ Appeals Chamber Decision, para. 8.

⁵ Trial Chamber Decision, paras 44 and 62.

⁶ *Ibid.*, para. 64. See also, paras 63 and 66.

was "not fully satisfied" that if released, the Accused would not pose a danger to any victim, witness or other person",⁷

CONSIDERING therefore that the submissions by the Prosecution cannot be considered relevant for our decision,

CONSIDERING that no real new facts have been put forward by the Defence to cause this Chamber to reconsider the Trial Chamber Decision,

CONSIDERING that the Prosecution maintains its objection to the provisional release of the Accused in the Prosecution's Response,

CONSIDERING that the trial in this case is scheduled to commence in May 2003,

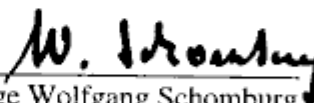
REINCORPORATING paragraphs 38 to 43 and paragraphs 63 to 70 of the impugned Trial Chamber Decision,

CONSIDERING that the Trial Chamber remains not satisfied that if released, Mr. Obrenović would appear for trial,

PURSUANT to Rule 65 of the Rules of Procedure and Evidence,

HEREBY DENIES the Motion.

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


Judge Wolfgang Schomburg
Presiding

Dated this nineteenth day of November 2002,
At The Hague
The Netherlands

[Seal of the Tribunal]

⁷ *Ibid.*, para. 65.