



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-05-88-R77.1-ES
Date: 6 July 2009
Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Patrick Robinson, President
Registrar: Mr. John Hocking
Order of: 6 July 2009

CONTEMPT PROCEEDINGS AGAINST DRAGAN JOKIĆ

PUBLIC

**ORDER DESIGNATING STATE IN WHICH DRAGAN JOKIĆ
IS TO SERVE HIS SENTENCE**

Counsel for the Accused

Ms. Branislava Isailović

I, Patrick Robinson, President 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 (“Tribunal”), hereby issue this Order in relation to the place where Dragan Jokić (“Jokić”) is to serve his sentence for contempt of the Tribunal.

1. On 17 January 2005, Trial Chamber I sentenced Dragan Jokić to nine years of imprisonment.¹ On 9 May 2007, the Appeals Chamber dismissed Jokić’s appeal in its entirety.²

2. On 10 October 2007, Austria was designated as the State in which Jokić would serve his sentence.³ On 22 December 2008, Jokić was transferred to Austria to serve his sentence of nine years’ imprisonment.

3. On 27 March 2009, Trial Chamber II sentenced Jokić to four months of imprisonment and ordered that this sentence was to be served consecutively to any other sentence of imprisonment imposed upon him.⁴ On 25 June 2009, the Appeals Chamber dismissed Jokić’s appeal and affirmed his sentence for contempt.⁵

4. On 1 July 2009, the Registrar sent a memorandum to the Office of the President informing that Austria had indicated its willingness to enforce Jokić’s new four-month sentence for contempt.⁶ The Registrar also indicated that Austria had outlined the revised full prison sentence term for Jokić, taking into account the second consecutive sentence to be served. Based upon the willingness of Austria to enforce Jokić’s additional sentence, as well as his currently enforced sentence, the Registrar recommended Austria as the State in which Jokić should serve his sentence for contempt of the Tribunal.⁷ The Registrar also notes in his memorandum that Jokić had already served two-thirds of his original sentence at the time of the Appeals Chamber’s decision affirming the contempt Judgement, but that, according to that decision, the new sentence of four months’ imprisonment is to run consecutively to any other sentence of imprisonment imposed upon Jokić.⁸

¹ *Prosecutor v. Blagojević and Jokić*, Case No. IT-02-60-T, Judgement, 17 January 2005.

² *Prosecutor v. Blagojević and Jokić*, Case No. IT-02-60-A, Judgement, 9 May 2007.

³ *Prosecutor v. Jokić*, Case No. IT-02-60-ES, Confidential Order Designating the State in which Dragan Jokić is to Serve his Prison Sentence, 10 October 2007.

⁴ *Contempt Proceedings against Dragan Jokić*, Case No. IT-05-88-R77.1, Judgement on Allegations of Contempt, 27 March 2009 (public redacted version).

⁵ *Contempt Proceedings against Dragan Jokić*, Case No. IT-05-88-R77.1-A, Judgement on Allegations of Contempt, 25 June 2009 (public redacted version).

⁶ Confidential Internal Memorandum from Registrar to President, 1 July 2009, para. 5.

⁷ *Ibid.*, para. 6.

⁸ *Ibid.*, para. 7.

5. I do not find it necessary for the Registrar to have enumerated in his memorandum the factors relevant to the designation of the State in which Jokić is to serve his sentence,⁹ based upon the fact that Jokić is already currently serving his original sentence in Austria and based upon the fact that the former President of the Tribunal has already taken these factors into account when designating Austria as the enforcement State.¹⁰

6. In respect of Jokić's eligibility for pardon or commutation of his sentence, I note that Article 28 of the Statute of the Tribunal provides as follows:

If, pursuant to the applicable law of the State in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the International Tribunal accordingly.¹¹

Article 8 of the Enforcement Agreement between the United Nations and Austria, which was signed on 23 July 1999 and entered into force 30 days after signature, also provides as follows:

If, pursuant to the applicable national law of the requested State, the convicted person is eligible for early release, pardon or commutation of sentence, the requested State shall notify the Registrar accordingly.¹²

I therefore note that Austria is under an obligation to notify the Registrar of the Tribunal if Jokić is eligible for pardon or commutation of his sentences, pursuant to Austrian law. Based upon the Registrar's representation that Jokić has already served two-thirds of his original sentence and the fact that the new sentence for contempt was only for four months' imprisonment, it is likely that Jokić is—or may soon be—eligible for pardon or commutation of both of his sentences, despite the fact that the second is to run consecutively to the first.

7. Under all of the circumstances, I, pursuant to Article 27 of the Statute of the Tribunal, Rule 103(A) of the Rules of Procedure and Evidence of the Tribunal, and paragraphs 3–5 of the Practice Direction, hereby

a. DECIDE that Jokić shall serve his four-month sentence for contempt in Austria; and

⁹ Practice Direction on the Procedure for the International Tribunal's Designation of the State in which a Convicted Person is to Serve His/Her Sentence of Imprisonment, IT/137, 9 July 1998 ("Practice Direction"), para. 3.

¹⁰ *Prosecutor v. Jokić*, Case No. IT-02-60-ES, Order Designating the State in which Dragan Jokić is to Serve His Prison Sentence, 10 October 2007.

¹¹ See also Rule 123 of the Rules of Procedure and Evidence of the Tribunal.

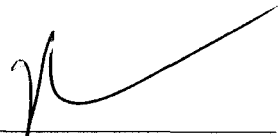
¹² Agreement between the United Nations and the Federal Government of Austria on the Enforcement of Sentences of the International Criminal Tribunal for the former Yugoslavia, 23 July 1999.

b. INVITE the Registrar to officially request the Austrian authorities to enforce Jokić’s four-month sentence and, should Austria accede to this request, so inform and take all necessary measures to facilitate the enforcement of Jokić’s sentence in Austria.

8. Based upon the fact that Jokić is currently serving his sentence in Austria, there is no longer any need for confidentiality on the following in *Prosecutor v. Jokić*, Case No. IT-02-60-ES: (a) Order Designating the State in which Dragan Jokić is to Serve His Prison Sentence, 10 October 2007; (b) Order Withdrawing the Confidential Status of Order Designating the State in which Dragan Jokić is to Serve His Prison Sentence, 29 October 2008; and (c) Order on Confidential Status of Order Designating the State in which Dragan Jokić is to Serve His Prison Sentence, 31 October 2008. The Registry of the International Tribunal is hereby REQUESTED to lift the confidential status of these Orders.

9. The Registry is hereby INSTRUCTED to provide the Austrian authorities with a copy of this present Order.

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



Judge Patrick Robinson
President

Dated this sixth day of July 2009
At The Hague
The Netherlands

[Seal of the Tribunal]