

**UNITED
NATIONS**

206
A 112 - A 111
205
112 206
mef



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-96-22-A

Date: 5 May 1997

Original: English

IN THE APPEALS CHAMBER

Before: Judge Cassese, Presiding
Judge Li
Judge Stephen
Judge McDonald
Judge Vohrah

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 5 May 1997

PROSECUTOR

v.

DRAŽEN ERDEMOVIĆ

SCHEDULING ORDER

The Office of the Prosecutor

**Mr. Grant Niemann
Mr. Payam Akhavan**

Counsel for the Accused

Mr. Jovan Babić

THE APPEALS CHAMBER of the International Criminal Tribunal for the former Yugoslavia,

CONSIDERING the Notice of Appeal filed by the accused in this case on 18 December 1996 and his Appellant Brief filed on 26 March 1997,

CONSIDERING the Respondent's Brief filed on 28 April 1997,

CONSIDERING that the Appeals Chamber deems it necessary for the Parties to address three preliminary questions which have not been raised in the grounds of appeal nor in the Respondent's Brief but which arise for determination before the grounds of the appeal may properly be heard, as detailed below,


CONSIDERING that any Reply by the Appellant to the Respondent's Brief will of necessity confine itself to issues relating to the grounds of appeal which the Appellant has already raised and not the preliminary questions which are of interest to the Chamber,

CONSIDERING, therefore, that it is in the interests of justice for a hearing to be held on these preliminary questions,

INSTRUCTS the Appellant and Respondent to submit written briefs by 20 May 1997 on the following preliminary questions:

- (1) In law, may duress afford a complete defence to a charge of crimes against humanity and/or war crimes such that, if the defence is proved at trial, the accused is entitled to an acquittal?
- (2) If the answer to (1) is in the affirmative, was the guilty plea entered by the accused at his initial appearance equivocal in that the accused, while pleading guilty, invoked duress?
- (3) Was the acceptance of a guilty plea valid in view of the mental condition of the accused at the time the plea was entered? If not, was this defect cured by statements made by the accused in subsequent proceedings?

DIRECTS the Registrar to schedule a hearing on these preliminary questions for Monday 26 May 1997 at 10 a.m.,



Antonio Cassese
President

Dated this 5th day of May 1997
At The Hague