



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-95-9-AR73.5

Date: 27 March 2002

Original: English

BEFORE A BENCH OF THE APPEALS CHAMBER

Before: Judge Mehmet Güney, Presiding
Judge Fausto Pocar
Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Decision of: 27 March 2002

PROSECUTOR

v.

**BLAGOJE SIMIĆ
MILAN SIMIĆ
MIROSLAV TADIĆ
SIMO ZARIĆ**

DECISION ON APPLICATION FOR LEAVE TO APPEAL

Counsel for the Prosecutor:

**Mr. Gramsci Di Fazio
Ms. Aisleen Reidy
Mr. Philip Weiner**

Defence Counsel:

**Mr. Igor Pantelić and Mr Srdjan Vuković for Blagoje Simić
Mr. Slobodan Zečević and Ms. Catherine Baen for Milan Simić
Mr. Novak Lukić and Mr. Dragan Krgović for Miroslav Tadić
Mr. Borislav Pisarević and Mr. Aleksander Lazarević for Simo Zarić**

A handwritten signature in black ink, appearing to be 'G. Di Fazio'.

THIS BENCH of 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 (“the Bench” and “the Tribunal” respectively),

BEING SEISED of the “Joint Defence Motion for Leave to Appeal”, filed by counsel for Blagoje Simić, Milan Simić, Miroslav Tadić and Simo Zarić (“the Applicants”) on 27 December 2001 (“the Application”);

NOTING the “Decision on the Prosecution’s Motion for Leave to Amend the Indictment” issued by Trial Chamber II on 20 December 2001, which granted the Office of the Prosecutor (“the Prosecution”) leave to amend the Third Amended Indictment and instructed the Prosecution to file the Fourth Amended Indictment (“the Impugned Decision”);

NOTING the “Prosecutor’s Response to the Joint Defence Motion for Leave to Appeal” (“the Response”), filed on 10 January 2002;

NOTING that the Applicants contend, *inter alia*, that the Fourth Amended Indictment contains new charges against them with respect to the destruction or wilful damage to religious institutions, and that the Applicants have not received sufficient notice of these charges;

NOTING that the Applicants submit that the Impugned Decision violates the right of an accused under Article 21(4)(a) of the Statute of the Tribunal and that the issue is of general importance to the proceedings before the Tribunal;

NOTING that Rule 73(D) of the Rules of Procedure and Evidence (“the Rules”) provides, *inter alia*, that, with leave of a bench of three Judges, interlocutory appeals may be made in the following two instances:

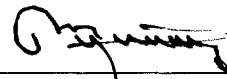
- (i) if the decision impugned would cause such prejudice to the case of the party seeking leave as could not be cured by the final disposal of the trial including post-judgement appeal;
- (ii) if the issue in the proposed appeal is of general importance to proceedings before the Tribunal or in international law generally;

CONSIDERING that it is for the Applicants to show that the Impugned Decision has caused such prejudice as could not be cured by the final disposal of the trial including post-judgement appeal, or that the issue is of general importance to proceedings before the Tribunal or in international law generally;

CONSIDERING that the Applicants have not established that the issue in the Application is of general importance to proceedings before the Tribunal or in international law generally, or that the Applicants have suffered any incurable prejudice;

HEREBY DISMISSES the Application.

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



Mehmet Güney
Presiding Judge

Dated this 27th day of March 2002
At The Hague,
The Netherlands.

[Seal of the Tribunal]