



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-99-37-AR65

Date: 28 June 2002

Original: English
French

BEFORE A BENCH OF THE APPEALS CHAMBER

Before: Judge Claude Jorda, Presiding
Judge David Hunt
Judge Mehmet Güney

Registrar: Mr. Hans Holthuis

Decision of: 28 June 2002

THE PROSECUTOR

v.

**NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ**

**DECISION ON PROSECUTION'S REQUEST FOR EXTENSION OF TIME IN
WHICH TO FILE APPLICATION FOR LEAVE TO APPEAL**

The Office of the Prosecutor:
Mrs. Carla Del Ponte

Defence Counsel:
Mr. Toma Fila and Mr. Zoran Jovanović for Nikola Šainović
Mr. Tomislav Višnjić, Mr. Vojislav Seležan and Mr. Peter Robinson for Dragoljub
Ojdanić

A BENCH OF THE APPEALS CHAMBER of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (hereinafter “the International Tribunal”),

NOTING the Decision on Applications of Nikola Šainović and Dragoljub Ojdanić for Provisional Release rendered by Trial Chamber III on 26 June 2002 (hereinafter “the impugned Decision”) in which Dragoljub Ojdanić and Nikola Šainović were granted provisional release;

NOTING the Prosecution’s Provisional Application for Leave to File an Interlocutory Appeal filed by the Prosecution on 27 June 2002 (hereinafter “the Provisional Application for Leave to Appeal”) in which it applied to a bench of the Appeals Chamber for leave to appeal the impugned Decision pursuant to Rule 65(D), (E), (F) and (G) of the Rules of Procedure and Evidence (hereinafter “the Rules”);

NOTING the Prosecution’s Request for Extension of Time in which to file Application for Leave to Appeal filed by the Prosecution on 27 June 2002 (hereinafter “the Prosecutor’s Request”) in which it requests the bench of the Appeals Chamber for an extension of the time-limit in which to file its Provisional Application for Leave to Appeal and contends in substance:

- 1) that it received the impugned Decision only on 27 June at 11:00 hours;
- 2) that the time it was accorded in which to file its application for leave to appeal was therefore considerably reduced;
- 3) that, in light of the importance of the issues raised, the Prosecutor was personally involved;
- 4) that since the Prosecutor is in Rwanda, it is not possible to inform her of the impugned Decision;

NOTING the Urgent Defence Response to Prosecution’s Request for Extension of Time in which to File Application for Leave to Appeal filed on 28 June 2002 in which the Defence contends in substance:

- 1) that an extension of the time-limit in this matter would significantly infringe the rights of the accused;

- 2) that the reasons put forward by the Prosecutor in this case are unjustified and unfounded;
- 3) that the spokesperson for the Prosecutor commented on the impugned Decision on Belgrade television around 22:00 hours on 26 June 2002;
- 4) that the organisation problems in the Office of the Prosecutor must not infringe the rights of the accused;

PURSUANT to Rules 127 and 65 of the Rules;

CONSIDERING that the Prosecutor did not show good cause justifying an extension of the time-limit provided for under Rule 65(F) of the Rules;

CONSIDERING however that the bench of the Appeals Chamber cannot render its decision on the Provisional Application for Leave to file an Appeal without a French translation of the impugned Decision and of other relevant documents;

FOR THE FOREGOING REASONS,

- 1) **REJECTS** the Prosecutor's Request;
- 2) **ORDERS** the Defence to file a response to the Provisional Application for Leave to Appeal on 5 July 2002 at the latest and the Prosecutor to file a reply on 8 July at the latest, should this prove necessary;
- 3) **REQUESTS** the Registrar to have the following documents translated by 9 July 2002 at the latest:
 - the impugned Decision
 - the Provisional Application for Leave to Appeal
 - the Defence response
 - the Prosecutor's reply (if necessary)
- 4) **DEFERS** ruling on the Provisional Application for Leave to Appeal.

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

Done this twenty-eighth day of June 2002

At The Hague

The Netherlands

(signed)

Claude Jorda

Presiding Judge of the Appeals Chamber

[Seal of the Tribunal]