

IT-99-37-PT
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**UNITED
NATIONS**

04 DECEMBER 2003

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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-99-37-PT
Date: 4 December 2003
Original: ENGLISH

IN THE TRIAL CHAMBER

Before: Judge Richard May, Presiding
Judge Patrick Robinson
Judge O-Gon Kwon

Registrar: Mr. Hans Holthuis

Decision: 4 December 2003

PROSECUTOR

v.

**MILAN MILUTINOVIĆ
DRAGOLJUB OJDANIĆ
NIKOLA ŠAINOVIĆ**

**DECISION ON PROSECUTION MOTION
FOR JOINDER**

The Office of the Prosecutor:

Ms. Carla Del Ponte

Counsel for the Accused:

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević, for Milan Milutinović
Mr. Toma Fila, Mr. Zoran Jovanović, and Mr. Goran Petrović for Nikola Šainović
Mr. Tomislav Višnjić, Mr. Peter Robinson, and Mr. Vojislav Seležan, for Dragoljub Ojdanić

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”),

BEING SEISED of a “Prosecution’s Motion for Joinder” (“the Motion”), signed by the Prosecutor of the International Tribunal (“Prosecution”) and filed on 5 November 2003, seeking to join the three accused in this case with the four persons accused in Case No. IT-03-70-I, and for all seven accused to be jointly charged and tried under one joint amended indictment,

NOTING the response to the Motion filed by the defence for Nikola Šainović on 18 November 2003, objecting to the proposed joinder and requesting an oral hearing on the Motion, together with the Prosecution reply thereto filed on 26 November 2003, without leave, contrary to Rule 126 *bis* of the Rules of Procedure and Evidence of the International Tribunal,


CONSIDERING that the Trial Chamber is not seised of the proceedings in Case No. IT-03-70-I,

CONSIDERING ALSO that warrants of arrest have been issued for the accused in that case but that those persons have not yet surrendered to the International Tribunal,

CONSIDERING that, in the view of the Trial Chamber, the Motion is prematurely filed and that the issue of joinder only becomes ripe for resolution when one or more of the accused in Case No. IT-03-70-I surrenders to or is brought before the International Tribunal,

HEREBY DENIES the Motion without prejudice to the right of the Prosecution to apply again as and when any of the accused in Case No. IT-03-70-I appears before the International Tribunal.

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


Richard May
Presiding

Dated this fourth day of December 2003
At The Hague
The Netherlands

[Seal of the Tribunal]