

17-99-37-AR72.2

A28-A26

19 JANUARY 2004

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**UNITED  
NATIONS**



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: IT-99-37-AR72.2

Date: 16 January 2004

Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Mohamed Shahabuddeen, Presiding  
Judge Fausto Pocar  
Judge Mehmet Güney

**Registrar:** Mr. Hans Holthuis

**Order of:** 16 January 2004

**PROSECUTOR**

v.

**Milan MILUTINOVIĆ  
Nikola ŠAINOVIĆ  
Dragoljub OJDANIĆ**

**ORDER**

**Counsel for the Prosecutor:**

**Mr. Geoffrey Nice  
Ms. Cristina Romano  
Mr. Milbert Shinn**

**Counsel for the Defence:**

**Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Milan Milutinović  
Mr. Toma Fila and Mr. Vladimir Petrović for Nikola Šainović  
Mr. Tomislav Višnjić and Mr. Peter Robinson for Dragoljub Ojdanić**

Case IT-99-37-AR72.2

16 January 2004

**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 (“International Tribunal”),

**BEING SEISED OF** the “General Ojdanić’s Appeal from Decision on Motion Challenging Jurisdiction and Motion for Extension of Time to File Opening Brief”(“Appeal”) filed by counsel for Dragoljub Ojdanić on 13 May 2003 (“Defence”);

**NOTING** the “Decision on Interlocutory Appeal on Motion for Additional Funds” issued by the Appeals Chamber on 13 November 2003, which dismissed the “General Ojdanić’s Appeal of Decision on Motion for Additional Funds *Ex Parte*” filed by the Defence on 23 July 2003 (“Interlocutory Appeal for Additional Funds”);

**CONSIDERING** the Order issued by this Bench on 15 July 2003, whereby the proceedings in the Appeal were suspended pending the resolution of the Interlocutory Appeal for Additional Funds because the Defence had indicated in the Appeal that it was unable to continue with it on a *pro bono* basis;

**CONSIDERING** the Order issued by this Bench on 17 November 2003, in which the Bench gave the Defence 15 days from the filing of that order to file an appeal brief and directed the Defence that “failure to do so shall be taken to signify withdrawal of this appeal” (“17 November Order”);

**CONSIDERING** that, after the making of the 17 November Order, the Defence by its “Motion for Stay of Proceedings or for Appointment of *Amicus Curiae*” filed on 28 November 2003 sought a stay of the proceedings pending the decision of the Registry on its request for additional funds or alternatively, if the Appeals Chamber were to deny the motion for stay of the proceedings, it sought the appointment of an *amicus curiae* in order to pursue the Appeal;

**CONSIDERING** that the Bench did not rule on the Appeal pending the decision of the Registry;

**CONSIDERING** that the Registry in a letter dated 16 December 2003 responded to the Defence that the “Registry is not in a position to allocate additional funds to your defence team”;

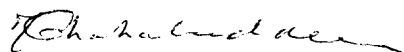
**REJECTING** the Defence’s request for the appointment of an *amicus curiae* on the grounds that the Defence is thereby merely seeking an indirect way of accomplishing the objective of obtaining additional funds for its case, objective with which the Appeals Chamber has already disagreed in its “Decision on Interlocutory Appeal on Motion for Additional Funds” rendered on 13 November 2003;

**NOTING** that no appeal brief has been filed within the time prescribed by the 17 November Order, or at all and in particular since the decision of the Registrar dated 16 December 2003;

**CONSIDERS** that, in all the circumstances of this case, the Defence should be given further time in which to file his appeal brief;

**ORDERS** that the Defence, within 15 days from the filing of this order, to file an appeal brief and **DIRECTS** that failure to do shall be taken to signify withdrawal of the appeal.

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



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Mohamed Shahabuddeen  
Presiding

Dated this 16<sup>th</sup> day of January 2004,  
At The Hague,  
The Netherlands.

**[Seal of the Tribunal]**