

IT-99-37-AR72.2
A97 - A95
12 MAY 2004

97_{AT}

**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: 12 May 2004

Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Fausto Pocar
Judge Mohamed Shahabuddeen
Judge Florence Ndepele Mwachande Mumba
Judge Mehmet Güney

Registrar: Mr. Hans Holthuis

Decision of: 12 May 2004

PROSECUTOR

v.

**Milan MILUTINOVIĆ
Nikola ŠAINOVIĆ
Dragoljub OJDANIĆ**

DECISION ON INTERLOCUTORY APPEAL

Counsel for the Prosecutor:

**Mr. Norman Farrell
Mr. Geoffrey Nice
Ms. Cristina Romano**

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. Peter Robinson and Mr. Vojislav Seležan for Dragoljub Ojdanić**

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 “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 (“Appellant”) on 13 May 2003 against the “Decision on Motion Challenging Jurisdiction” rendered by Trial Chamber III on 6 May 2003 (“Impugned Decision”), in which the Trial Chamber rejected “General Dragoljub Odjanić’s Preliminary Motion to Dismiss for Lack of Jurisdiction: Kosovo” filed on 29 November 2002;

NOTING the orders issued by a Bench of three Judges of the Appeals Chamber on 15 July 2003, 17 November 2003, and 16 January 2004;

NOTING “General Odjanić’s Opening Brief” filed by the Appellant on 30 January 2004;

NOTING the “Prosecution’s Response to Admissibility of ‘General Odjanić’s Opening Brief’ filed on 30 January 2004” filed by the Prosecution on 9 February 2004;

NOTING the “Decision” issued by the Bench of three Judges of the Appeals Chamber on 27 February 2004 declaring that the Appeal concerned an issue of jurisdiction and referring the Appeal to a bench of five judges;

NOTING the “Prosecution’s Response to Defence Interlocutory Appeal on Jurisdiction (Kosovo)” filed on 12 March 2004;

NOTING “General Odjanić’s Reply” filed on 16 March 2004;

NOTING that the Appellant argues that the Trial Chamber erred in finding that the International Tribunal has jurisdiction to try him for crimes allegedly committed in the territory of Kosovo;

CONSIDERING the need to ensure an expeditious handling of the proceedings before the International Tribunal;

HEREBY DISMISSES the Appeal and **STATES** that a reasoned decision will be given in due course.

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



Theodor Meron
Presiding Judge

Dated this 12th day of May 2004,
At The Hague,
The Netherlands.

[Seal of the Tribunal]