



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-PT
Date: 10 February 2005
Original: English

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge O-Gon Kwon
Judge Iain Bonomy

Registrar: Mr. Hans Holthuis

Order of: 10 February 2005

PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ**

**ORDER TO DEFENCE TO MAKE
ARRANGEMENTS FOR AN ORAL HEARING
ON PROVISIONAL RELEASE**

The Office of the Prosecutor

**Mr. Geoffrey Nice
Mr. Thomas Hannis**

Counsel for General Ojdanić

**Mr. Tomislav Višnjić
Mr. Peter Robinson**

Counsel for Milan Milutinović

**Mr. Eugene O'Sullivan
Mr. Slobodan Zečević**

Counsel for Nikola Šainović

**Mr. Toma Fila
Mr. Vladimir Petrović**

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 (“the International Tribunal”),

NOTING “Mr. Milan Milutinović’s Second Motion for Provisional Release”, filed confidentially by counsel for Milan Milutinović (“Milutinović Defence”) on 17 December 2004, and partly confidential “Prosecution’s Response to Milan Milutinović’s Second Motion for Provisional Release with Annexes A, B, and Confidential Annex C”, filed by the Office of the Prosecution (“Prosecution”) on 22 December 2004, followed by confidential “Application to File a Reply and Reply to Prosecution’s Response to Mr. Milan Milutinović’s Second Motion for Provisional Release” filed by the Milutinović Defence on 29 December 2004;

NOTING “General Ojdanić’s Fourth Application for Provisional Release”, filed by counsel for Dragoljub Ojdanić (“Ojdanić Defence”) on 14 December 2004, and the partly confidential “Prosecution’s Response to General Ojdanić’s Fourth Application for Provisional Release with Annexes A, B, C and Confidential Annex D”, filed by the Prosecution on 22 December 2004, followed by “General Ojdanić’s Reply to Prosecutor’s Response to Fourth Application for Provisional Release” filed on 28 December 2004;

NOTING the “Third Request for Provisional Release”, filed by counsel for Nikola Šainović (“Šainović Defence”) on 23 December 2004, and the “Prosecution’s Response to Nikola Šainović’s Third Defence Request for Provisional Release with Annexes A and B” and the “Prosecution’s Supplemental Response to Nikola Šainović’s Third Defence Request for Provisional Release with Confidential Annex A”, filed by the Prosecution on 6 January 2005 and 20 January 2005 respectively, followed by “Defence Reply to Prosecution’s Response to Nikola Šainović’s Third Defence Request for Provisional Release” and “Defence Second Reply to Prosecution’s Supplemental Response to Šainović’s Third Request for Provisional Release”, filed respectively by the Šainović Defence on 13 January 2005 and 27 January 2005,

CONSIDERING that the Milutinović Defence, the Ojdanić Defence, and the Šainović Defence each request an oral hearing in their respective applications for provisional release,¹

¹ “Mr. Milan Milutinović’s Second Motion for Provisional Release”, 17 December 2004, p.11; “General Ojdanić’s Fourth Application for Provisional Release”, 14 December 2004, para. 2; “Third Request for Provisional Release”, 23 December 2004, para. 36
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and that the Prosecution's response to each of the three applications is that "should the Trial Chamber deem such a hearing is necessary for the determination of this matter, the Prosecutor applies for leave to be allowed to cross-examine a representative of Serbia and Montenegro on the guarantees issued",²

CONSIDERING FURTHER that the Trial Chamber may be assisted by hearing evidence from representatives of the government of Serbia and Montenegro and the Republic of Serbia with regard to the guarantees offered,

PURSUANT TO Rules 65 of the Rules of Procedure and Evidence of the International Tribunal,

HEREBY GRANTS the Defence for each Accused the opportunity to lead evidence from representatives of the government of Serbia and Montenegro and the Republic of Serbia, and **ORDERS** the Defence for each of the Accused, if they propose to lead evidence, to inform the Trial Chamber, within 14 days, of the identity of any witness they wish to lead, and of the proposed arrangements for such evidence to be taken.

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



Judge Patrick Robinson
Presiding

Dated this tenth day of February 2005
At The Hague
The Netherlands

[Seal of the Tribunal]

² "Prosecution's Response to Milan Milutinović's Second Motion for Provisional Release with Annexes A, B, and Confidential Annex C", 22 December 2004, para. 27; "Prosecution's Response to General Ojdanić's Fourth Application for Provisional Release with Annexes A, B, C and Confidential Annex D", 22 December 2004, para. 41; "Prosecution's Response to Nikola Šainović's Third Defence Request for Provisional Release with Annexes A and B", 6 January 2005, para. 28