



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-04-82-PT  
Date: 14 June 2005  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Carmel Agius, Presiding  
Judge Hans Henrik Brydensholt  
Judge Albin Eser

**Registrar:** Mr. Hans Holthuis

**Decision of:** 14 June 2005

**PROSECUTOR**

v.

**Ljube BOŠKOVSKI  
Johan TARČULOVSKI**

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**DECISION ON LJUBE BOŠKOVSKI'S MOTION  
CHALLENGING JURISDICTION**

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**The Office of the Prosecutor:**

Mr. Kenneth Scott

**Counsel for the Accused:**

Mr. Dragan Godzo for Ljube Boškoski  
Mr. Antonio Apostolski for Johan Tarčulovski

**TRIAL CHAMBER II** (“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 (“Tribunal”),

**BEING SEISED OF** the “Defence Motion of Ljube Boškoski Challenging the Jurisdiction of the Tribunal” filed by the defence for the accused Ljube Boškoski (“Defence”) on 23 May 2005 (“Motion”), pursuant to Rule 72(A)(i) and (D) of the Rules of Procedure and Evidence of the Tribunal (“Rules”) challenging the jurisdiction of the Tribunal;

**NOTING** that in its Motion, the Defence submits essentially the following three grounds: (i) the temporal jurisdiction of the Tribunal ceased in 1999 at the latest and thus the Tribunal has no jurisdiction to adjudicate crimes allegedly occurred in 2001 since neither the wars in Bosnia and Croatia and the crises in Kosovo, nor the two agreements pertaining to the process of dissolution of the SFRY, i.e., the 1995 Dayton agreement and the 1999 Kumanovo Agreement have any factual or legal connection with the Former Yugoslav Republic of Macedonia (“FYROM”) at that time;<sup>1</sup> (ii) no armed conflict existed in the FYROM when the Tribunal was established in 1993 by the UN Security Council Resolution 827 and there was a clear territorial division between the FYROM and the Yugoslav Federation which, at that time, was composed of Serbia and Montenegro;<sup>2</sup> and (iii) the Indictment does not relate to any of the violations of Article 3 of the Statute due to the fact that there existed military necessity and the armed persons who were referred to in paragraphs 62, 68, 70 of the Indictment cannot be regarded as being protected in the spirit of international humanitarian law;<sup>3</sup>

**NOTING** the “Prosecution’s Response to Ljube Boškoski’s Motion Challenging the Jurisdiction of the Tribunal” filed by the Prosecution on 6 June 2005 (“Response”)<sup>4</sup> in which the Prosecution submits that the issues raised in the Motion are in substance the same as those raised in Tarčulovski’s Preliminary Motions including the addendum<sup>5</sup> and that the Decision of the Chamber

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<sup>1</sup> Motion, para. 24; *see also* paras 12-14, 18, 19.

<sup>2</sup> Motion, para. 23; *see also* paras 13, 14, 18.

<sup>3</sup> Motion, paras 31-35.

<sup>4</sup> *The Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, Case No. IT-04-82-PT, Prosecution’s Response to Ljube Boškoski, 6 June 2005 (“Response”).

<sup>5</sup> *The Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, Case No. IT-04-82-PT, Preliminary Motion from accused Johan Tarčulovski and his Defence attorney Antonio Apostolski, 31 March 2005; *The Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, Case No. IT-04-82-PT, Addendum to the Preliminary Motion, by Mr. Antonio Apostolski, Defence Counsel for Mr. Johan Tarčulovski, 24 May 2005; *The Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, Case No. IT-04-82-PT, Motion Filed by the Defence of Johan Tarčulovski Challenging: the Territorial, Temporal & Subject Matter Jurisdiction of the Tribunal, 27 May 2005 (“Tarčulovski’s Preliminary Motions”).

on 1 June 2005 (“Decision of 1 June 2005”)<sup>6</sup> is fully dispositive of the Motion and thus the Motion should be denied<sup>7</sup>;

**CONSIDERING** that, as submitted in the Response, the Trial Chamber regards the arguments in the Motion as being substantially identical to those submitted by the co-accused Johan Tarčulovski<sup>8</sup> and that the reasoning and the findings of this Trial Chamber in the Decision of 1 June 2005 applies to the arguments raised in the Motion;

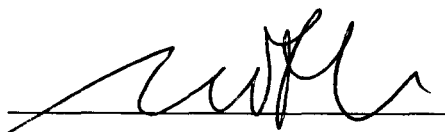
**FOR THE FOREGOING REASONS**

**PURSUANT TO** Rule 72 of the Rules;

**HEREBY DISMISSES** the Motion.

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

Dated this fourteenth day of June 2005,  
At The Hague,  
The Netherlands.



**Carmel Agius**

**Presiding Judge**

**[Seal of the Tribunal]**

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<sup>6</sup> *The Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, Case No. IT-04-82-PT, Decision on Johan Tarčulovski’s Motion Challenging Jurisdiction, 1 June 2005.

<sup>7</sup> Response, para. 5.

<sup>8</sup> *Supra* fn. 5.