



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-05-87-AR108bis.1  
& AR108bis.2

Date: 16 December 2005

Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Fausto Pocar, Presiding  
Judge Mohamed Shahabuddeen  
Judge Mehmet Güney  
Judge Theodor Meron  
Judge Wolfgang Schomburg

**Registrar:** Mr. Hans Holthuis

**Order of:** 16 December 2005

**PROSECUTOR**

v.

**MILAN MILUTINOVIĆ  
NIKOLA ŠAINOVIĆ  
DRAGOLJUB OJDANIĆ  
NEBOJŠA PAVKOVIĆ  
VLADIMIR LAZAREVIĆ  
VLASTIMIR ĐORĐEVIĆ  
SRETEN LUKIĆ**

**STAY OF TRIAL CHAMBER DECISION**

**Counsel for NATO**

Mr. B. De Vidts

**The Office of the Prosecutor:**

Mr. Thomas Hannis  
Ms. Christina Moeller  
Ms. Carolyn Edgerton

**Counsel for the Accused:**

Mr. Eugene O'Sullivan and Mr. Slobodan  
Zečević for Milan Milutinović  
Mr. Toma Fila and Mr. Vladimir Petrović for  
Nikola Sainović  
Mr. Tomislav Višnjić and Mr. Peter Robinson  
for Dragoljub Ojdanić  
Mr. John Ackerman and Mr. Aleksander Alekšić  
for Mr. Nebojša Pavković  
Mr. Mihaljo Bakrač for Mr. Vladimir Lazarević  
Mr. Theodore Scudder for Mr. Sreten Lukić

**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”),

**NOTING** the Trial Chamber’s “Decision on Second Application of Dragoljub Ojdanić for Binding Orders Pursuant to Rule 54*bis*” (“Decision”), rendered on 17 November 2005;

**NOTING** that the Trial Chamber suspended the operative effect of the Decision for 21 days;

**NOTING** the “NATO Request for Review of Decision on Second Application of Dragoljub Ojdanić for Binding Orders Pursuant to Rule 54*bis*” and the “Request of the United States of America for Review of the Decision on Second Application of Dragoljub Ojdanić for Binding Orders Pursuant to Rule 54*bis*” (“NATO and United States Request”), both filed in the Appeals Chamber on 2 December 2005;

**NOTING** the “Request of the United States of America for an Extension of the Stay of the Decision on Second Application of Dragoljub Ojdanić for Binding Orders Pursuant to Rule 54*bis* Pending Appeal of the Decision”, filed in the Trial Chamber on 8 December 2005;

**NOTING** the “Request of the North Atlantic Treaty Organisation for an Extension of the Stay of the Decision on Second Application of Dragoljub Ojdanić for Binding Orders Pursuant to Rule 54*bis* Pending Appeal of the Decision”, filed in the Trial Chamber on 9 December 2005;

**NOTING** “General Ojdanić’s Submission on Admissibility of Requests for Review”, filed by Counsel for the Accused on 6 December 2005, which stated the Accused’s lack of objection to extending the stay;

**NOTING** the Trial Chamber’s “Order Dismissing Requests to Extend the Stay of Enforcement of the Decision on Second Application of Dragoljub Ojdanić for Binding Orders Pursuant to Rule 54*bis*”, rendered on 13 December 2005, which refused to extend the stay because, *inter alia*, the Appeals Chamber is seized of the requests for review;

**CONSIDERING** that the Trial Chamber has an inherent right to stay its own decisions pending appeal;

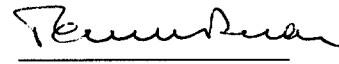
**CONSIDERING** the reasoning of the Trial Chamber in the Decision that the Appeals Chamber was already seized of the NATO and United States Requests;

**CONSIDERING** that Rule 108*bis* (C) of the Rules of Procedure and Evidence allows the Appeals Chamber to “at any stage suspend the execution of the impugned decision”;

**HEREBY STAYS** the Decision until such time as the NATO and United States Requests have been resolved.

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

Done this 16th day of December 2005,  
At The Hague,  
The Netherlands.

  
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Judge Fausto Pocar  
President

[Seal of the International Tribunal]