

THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

CASE No. IT-95-05/18-PT  
CASE No. IT-08-91-PT

IN THE SPECIALLY APPOINTED CHAMBER

Before: Judge O-Gon Kwon, Presiding  
Judge Iain Bonomy  
Judge Kevin Parker

Acting Registrar: Mr. John Hocking

Date Filed: 19 January 2009

*Robert S. ...*

THE PROSECUTOR

THE PROSECUTOR

v.

v.

RADOVAN KARADZIC

MICO STANISIC and  
STOLJAN ZUPLJANIN

*Public*

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KARADZIC APPLICATION FOR  
CERTIFICATION TO APPEAL  
DECISION ON JOINDER

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The Office of the Prosecutor:  
Mr. Allan Tieger  
Mr. Mark Harmon

The Office of the Prosecutor:  
Mr. Tom Hannis

The Accused:  
Radovan Karadzic

Counsel for the Accused:  
Slobodan Zecevic and Slobodan Cvjetic  
Tomislav Visnjic and Igor Pantelic

1. Dr. Radovan Karadzic hereby seeks certification to appeal the *Decision on Stoljan Zupljanin's Motion for Joinder* (6 January 2009). This decision was served upon Dr. Karadzic in Serbian on 13 January 2009.

2. Dr. Karadzic hereby joins in the arguments contained in *Stoljan Zupljanin's Motion for Certification for Interlocutory Appeal of the Decision on Joinder dated 6 January 2009* (14 January 2009) and incorporates them by reference herein.

3. In addition, Dr. Karadzic directs the Chamber's attention to the Appeals Chamber's *Decision on Prosecution Application for Leave to file an Interlocutory Appeal* (9 January 2002) in the *Milosevic* case in which a three Judge bench held that the issue of joinder was of sufficient importance to warrant an interlocutory decision by the Appeals Chamber, rather than waiting for an appeal from final judgement. Like the *Zupljanin* decision, the issue appealed from in the Trial Chamber's decision in *Milosevic* involved the scope of the indictments and the efficacy of trying cases together which did not factually overlap in all respects.

4. While the *Milosevic* leave to appeal decision was made under an earlier version of Rule 73, if the issue of joinder was found to be significant enough to warrant an interlocutory decision when sought by the prosecutor, surely the same kind of issue is significant enough to warrant interlocutory appeal when sought by an accused.

5. Certification to appeal the joinder decision in this case is further supported by the Trial Chamber's *Decision on Motion for Certification of Joinder Decision for Interlocutory Appeal* (6 October 2005) in the *Popovic et al* case. There, the Chamber, applying the current version of Rule 73, held that the issue of joinder of accused at the request of the prosecution significantly affected the fair and expeditious conduct of the proceedings and that an immediate decision by the Appeals Chamber would materially advance the proceedings. The same must be true for a decision on joinder at the request of an accused.

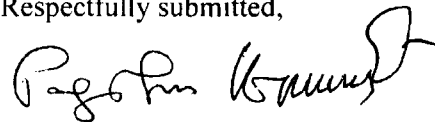
6. In the *Gotovina* case, the Trial Chamber likewise decided that an interlocutory appeal of a prosecution motion to join three accused for trial met the criteria for certification.<sup>1</sup>

7. Given that two members of the current specially appointed Trial Chamber (Judge Kwon in *Popovic* and Judge Parker in *Gotovina*) have already found that the issue of joinder of accused merits certification for appeal, it would seem logical that the same consideration be given to this case.

8. Therefore, it is respectfully requested that certification to appeal the *Decision on Stoljan Zupljanin's Motion for Joinder* be granted.

Word count: 562

Respectfully submitted,



Radovan Karadzic

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<sup>1</sup> *Prosecutor v Gotovina et al*, No. IT-03-73-PT, *Decision on Defence Applications for Certification to Appeal Decision on Prosecution's Consolidated Motion to Amend the Indictment and for Joinder* (14 August 2006)