



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: 28 July 2004
Original: English

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge O-Gon Kwon
Judge Bert Swart

Registrar: Mr. Hans Holthuis

Order of: 28 July 2004

PROSECUTOR

v.

**MILAN MILUTINOVIĆ
DRAGOLJUB OJDANIĆ
NIKOLA ŠAINOVIĆ**

SCHEDULING ORDER FOR FILING OF NOTICES PURSUANT TO RULE 94 bis

The Office of the Prosecutor

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

Counsel for the Accused

**Mr. Eugene O'Sullivan and Mr. Slobodan Zečević, for Milan Milutinović
Mr. Tomislav Višnjić, Mr. Peter Robinson and Mr. Vojislav Selžan, for Dragoljub Ojdanić
Mr. Toma Fila and Mr. Vladimir Petrović, for Nikola Šainović**

I, PATRICK ROBINSON, Judge 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”),

HAVING BEEN DESIGNATED as pre-trial Judge in this matter by virtue of an Order dated 5 September 2002,

BEING SEISED of a “Defence Submission” filed on 8 July 2004 by counsel for the accused, Nikola Šainović, seeking directions as to the relevant date for filing of notices pertaining to expert reports pursuant to Rule 94 *bis* of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), and two Motions in support of the Defence Submission filed by counsel for the other two accused on 9 July 2004 (together “the Motions”), requesting, *inter alia*, a period of thirty days from the day the final versions of all expert reports are filed in which to file such notices,

NOTING the joint response to the Motions filed by the Office of the Prosecutor (“Prosecution”) on 22 July 2004, in which the Prosecution stated that it had no objection in principle to a new timeframe being set for filing of these notices and submitting that this should be no more than thirty days from the date on which the decision is rendered in respect of the reports that have already been disclosed,

NOTING the “Application for Leave to File a Reply and Reply” filed on behalf of the accused, Milan Milutinović, on 27 July 2004,

NOTING that the Motions also refer to discussions during at a conference held pursuant to Rule 65 *ter* of the Rules relating to the possible use of Rule 89 (F) and Rule 92 *bis* and request that any witnesses whose statements or transcripts of testimony are admitted pursuant to those Rules should be summoned to appear for cross-examination, which matter is pending before the full Trial Chamber,

NOTING that Rule 94 *bis* (B) requires the opposing party to file a notice responding to each expert report within thirty days of disclosure of the statement of the expert witness, or such other time prescribed by the Trial Chamber or pre-trial Judge,

NOTING that disclosure of the expert reports has been made over an extended period commencing January 2003, that two reports are not yet finalised, and that two reports are still to be produced and disclosed,

NOTING also the assertions of the defence that they had anticipated filing their notices pursuant to Rule 94 *bis* when all expert reports have been disclosed,

CONSIDERING that, as no date has yet been set for trial, there is no prejudice to the proper administration of justice in permitting the defence to file notices pursuant to Rule 94 *bis* at this stage of the proceedings and that to do so may expedite the proceedings at trial,

PURSUANT TO Rule 94 *bis* of the Rules

HEREBY ORDER as follows:

- (1) the Defence Application for Leave and Reply is granted and the Reply is accepted as properly filed in this matter;
- (2) each of the defence teams may, within thirty days of the date of this Order, file notice pursuant to Rule 94 *bis* (B) in respect of each of the eight reports disclosed to date in final form;
- (3) the Prosecution shall, within three months of the date of this Order, disclose to the defence the definitive versions of all reports which have not yet been disclosed or are not yet in final form, failing which it is to report to the pre-trial Judge as to the reasons for the continued delay.

The Trial Chamber remains seised of all matters relating to the admission of evidence pursuant to Rule 89 (F) and Rule 92 *bis* of the Rules.

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



Patrick Robinson
Pre-trial Judge

Dated this twenty-eighth day of July 2004
At The Hague
The Netherlands

[Seal of the Tribunal]