



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-T

Date: 12 July 2006

Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetana Kamenova

Registrar: Mr. Hans Holthuis

Order of: 12 July 2006

PROSECUTOR

v.

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

ORDER ON SRETEN LUKIĆ'S MOTION TO COMPEL PROSECUTION DISCLOSURE

Office of the Prosecutor

Mr. Thomas Hannis
Mr. Chester Stamp
Ms. Christina Moeller
Ms. Patricia Fikirini
Mr. Mathias Marcussen

Counsel for the Accused

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Mr. Milan Milutinović
Mr. Toma Fila and Mr. Vladimir Petrović for Mr. Nikola Šainović
Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Mr. Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksander Aleksić for Mr. Nebojša Pavković
Mr. Mihajlo Bakrač for Mr. Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Mr. Sreten Lukić

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 (“Tribunal”);

BEING SEIZED of “Sreten Lukić’s Motion to Compel Prosecution Disclosure”, filed on 7 June 2006 (“Motion”), which seeks “an order compelling the Office of the Prosecutor to re-disclose the electronic copies of proffered 65 *ter* exhibits such that they can be more readily located”;¹

NOTING the “Joint Defence Motion: Joining ‘Sreten Lukić’s Motion to Compel Prosecution Disclosure’”, filed by the respective defence teams for Accused Šainović and Accused Lazarević (collectively, along with Accused Lukić, “Accused”) on 9 June 2006;

NOTING the “Prosecution Response to Sreten Lukić’s Motion to Compel Prosecution Disclosure”, filed on 12 June 2006 (“Response”) by the Office of the Prosecutor (“Prosecution”), which argues that the Motion “lacks merit and should be dismissed” on several grounds;²

NOTING the discussion of this issue at the Pre-Trial Conference held pursuant to Rule 73 *bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”);³

NOTING that Rule 65 *ter*(E)(iii) provides that the Pre-Trial Judge

shall order the Prosecutor ... to file ... the list of exhibits the Prosecutor intends to offer stating where possible whether the defence has any objection as to authenticity. The Prosecutor shall serve on the defence copies of the exhibits so listed.

CONSIDERING that, as the Prosecution correctly asserts, “Rule 65 *ter* contains no provision regarding the manner in which the Prosecution is to name or organise the exhibits it intends to present”;

CONSIDERING that, in order for a party to comply meaningfully with Rule 65 *ter*’s requirements, the method or manner adopted for disclosure of the information required by the Rule must be rational and comprehensible, so as to permit the recipient or recipients to understand and use the material in the continual preparation of their case;

¹ Motion, p. 5.

² Response, para. 2.

³ See *Milutinović, Šainović, Ojdanić, Pavković, Lazarević, and Lukić*, Case No. IT-05-87-PT, Transcript of Pre-Trial Conference, T. 284–286 (7 July 2006).

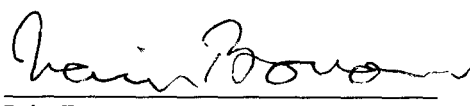
CONSIDERING that the manner in which the Prosecution has chosen to identify the exhibits it intends to tender at trial, which includes a table cross-referencing and correlating the different identification numbering systems used in its Pre-Trial Brief and the electronic material provided to the Accused,⁴ complies with the Prosecution's obligations under Rule 65 *ter*;

CONSIDERING MOREOVER that the electronic document and evidence management system ("eCourt") used in this trial has further simplified the task of cross-referencing the various numbering systems in use with regard to the Prosecution's proposed exhibits;

PURSUANT TO Rules 54 and 65 *ter* of the Rules,

HEREBY DENIES the Motion.

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


Iain Bonomy
Presiding

Dated this twelfth day of July 2006
At The Hague
The Netherlands

[Seal of the Tribunal]

⁴ See Motion, para. 7; Response, paras. 8–9.