



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-98-32/1-PT

Date: 14 September 2006

Original: English

**IN THE TRIAL CHAMBER**

**Before:** Judge Patrick Robinson, Presiding  
Judge Krister Thelin  
Judge Frank Höpfel

**Registrar:** Mr. Hans Holthuis

**Order of:** 14 September 2006

**PROSECUTOR**

v.

**MILAN LUKIĆ  
SREDOJE LUKIĆ**

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**ORDER SUSPENDING CONSIDERATION OF SREDOJE LUKIĆ'S DEFENCE MOTION  
FOR COMPLETE DISCLOSURE PURSUANT TO RULE 66 (A)(ii) AND 66 (B)**

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**Office of the Prosecutor**

Mr. Mark B. Harmon  
Mr. Frédéric Ossogo  
Mr. Fergal Gaynor

**Counsel for Milan Lukić**

Mr. Alan L. Yatvin

**Counsel for Sredoje Lukić**

Mr. Đuro J. Čepić

**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 a confidential “Sredoje Lukić’s Defence Motion for Complete Disclosure Pursuant to Rule 66 (A)(ii) and (B) with Confidential Annex”, filed on 28 August 2006 (“Motion”), in which the Defence of Sredoje Lukić (“Defence”) requests the Trial Chamber to order the Prosecution “to disclose all material according to Rule 66 (A)(ii) and 66 (B)” of the Rules of Procedure and Evidence (“Rules”);

**NOTING** the Defence argument that although the Prosecution complied with its disclosure obligations under Rule 66(A)(i), it has not received any other material pursuant to Rule 66 of the Rules, despite its several requests to the Prosecution to this effect; that “all the materials in the custody or under the control of the Prosecutor, which are material to the preparation of the defence, must be provided to it by the Prosecution” pursuant to Rule 66 (B) of the Rules;

**NOTING FURTHER** the Defence submission that the fulfilment of all outstanding disclosure obligations under Rules 66(A)(ii) and 66(B) of the Rules is material to the determination of the “Request by the Prosecutor under Rule 11*bis*”, filed on 1 February 2005 (“Referral Request”) before the Referral Bench, in which the Prosecution requests the referral of the case against Sredoje Lukić and Milan Lukić to the authorities of Bosnia and Herzegovina pursuant to Rule 11*bis* of the Rules; that, in anticipation of the hearing on this matter scheduled for 15 September 2006, the Defence and the Referral Bench ought to have conducted a review of the material in the custody of the Prosecution;

**NOTING** the confidential “Prosecution’s Response to Sredoje Lukić’s Motion for Complete Disclosure pursuant to Rule 66(A)(ii) and (B)” (“Response”), filed on 8 September 2006, in which the Prosecution opposes the Motion on the basis that (a) there is no obligation to disclose further witness statements under Rule 66 (A)(ii), because no time limit has been prescribed in relation to Rule 66(A)(ii) by the Trial Chamber or by the pre-trial Judge pursuant to Rule 65ter of the Rules, (b) while the Prosecution continues to comply with its disclosure obligations under Rule 66(B), this provision is not concerned with pre-trial disclosure of witness statements, and (c) there is no support in the Tribunal’s jurisprudence for the proposition that a complete pre-trial disclosure is necessary in circumstances where an application is made pursuant to Rule 11*bis*,

**NOTING** the proceedings in this case before the Referral Bench pursuant to Rule 11*bis* of the Rules, and the oral submissions on that matter scheduled for Friday, 15 September 2006,

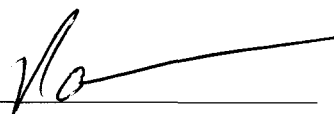
**CONSIDERING** that the decision on the Referral Request would determine whether or not further pre-trial preparation – including, but not limited to, a work plan with respect to disclosure obligations, discussion of issues related to the preparation of the case between the parties, submission of the Prosecutor and the Defence pre-trial briefs, as well as witnesses and exhibits lists – pursuant to Rule 65*ter* of the Rules is required;

**CONSIDERING FURTHER** that, should the need arise, the Referral Bench may issue such orders as necessary for the determination of the proceedings before it, therefore, this Trial Chamber is not satisfied that further pre-trial disclosure is necessary at this stage,

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

**HEREBY SUSPENDS CONSIDERATION OF THE MOTION UNTIL FURTHER ORDER.**

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

  
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Judge Robinson  
Presiding

Dated this fourteenth day of September 2006  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**