



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: 24 November 2006

Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Order of: 24 November 2006

PROSECUTOR

v.

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

ORDER ON TIMING OF MOTIONS AND RESPONSES PRIOR TO WINTER RECESS

Office of the Prosecutor

Mr. Thomas Hannis
Mr. Chester Stamp

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. Aleksandar Aleksić for Mr. Nebojša Pavković
Mr. Mihajlo Bakrač and Mr. Đuro Čepić 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"), *ex proprio motu*, issues this Order to ensure the fair and expeditious conduct of the trial pursuant to Article 20 of the Statute of the Tribunal, by establishing a schedule for the filing of motions in connection with the witnesses to be called by the Prosecution during the week of 15 January 2007.

1. The Chamber reiterates its concern with the practice of the Prosecution of filing motions upon which action must be taken (in order to ensure the smooth running of the trial) by the Trial Chamber prior to the fourteen-day response time allowed to the Defence pursuant to Rule 126 *bis*.¹ The Chamber has dealt with this practice by reducing the response time of the Defence pursuant to Rule 127 and notes with appreciation the general attitude of cooperation taken by the Defence in such circumstances.²

2. The Chamber notes that the winter recess is scheduled to take place from 16 December 2006 to 15 January 2007 and that the Registry has been requested to tentatively schedule hearings in the above-referenced matter during the week of 15 January 2007 for five-hours per day.³ The Chamber thus anticipates a significant amount of evidence being adduced by the Prosecution during that week, which will most likely necessitate attendant motions from the Prosecution for orders of protective measures, video-links, *etc.* The Defence will have to be afforded the opportunity of responding to any such applications, and the applications themselves will have to be decided in advance of the testimony of the witnesses, *i.e.*, during the winter recess.

3. The Chamber therefore considers that it is appropriate and in the interests of justice to give some directions and guidelines to the parties in these matters.

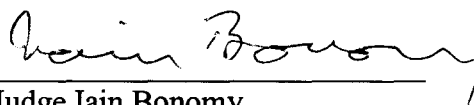
¹ The recently filed partially confidential "Prosecution Motion for Testimony to Be Heard via Video-Link Conference with Confidential Annexes," filed 22 November 2006, is the most recent example of this recurring practice.

² See, e.g., T. 5843 (3 November 2006) ("JUDGE BONOMY: Thank you. I do want to say, however, that this practice of raising these matters at the last minute is unacceptable to the Chamber. I have ad nauseam commented on the failure of the Prosecution to present things to us in an orderly way. This is another example. If there is going to be delay in making final arrangements with witnesses for the presentation of their evidence, applications of this nature are going to come to the Tribunal -- to the Trial Chamber in circumstances where they are under pressure to make a decision, and that's quite inappropriate. These applications must be directed to us in time to enable the Defence to respond in the usual way. In future, if this happens, the witness will have to be postponed until the ordinary course is followed, unless there is good cause for the application coming at the last minute. And the fact that the Prosecution have chosen not to speak to the witness until the last minute will not be viewed by the Trial Chamber as good cause. We will, however, deal with this particular one, since it's only now that we are making clear the course that we will follow in the future."); Order Varying Time Limit for Defence Response to Partly Confidential Prosecution Motion for Testimony of Witness K58 to Be Heard Via Video-Link Conference, 25 October 2006; Order Varying Time Limit for Defence Response to Partly Confidential Prosecution Motion for Further Additional Trial Related Protective Measure for Witness K56, 25 October 2006.

³ Scheduling Order, 15 November 2006, para. 4(a)(ix), (b).

4. Pursuant to Rules 54, 126 *bis*, and 127, the Chamber hereby ORDERS as follows:
- a. The Prosecution shall file all applications in relation to the testimony of witnesses who are to be called to give evidence during the week of 15 January 2007 by no later than Friday, 1 December 2006.
 - b. The Defence shall respond to any such applications by Friday, 8 December 2006.

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



Judge Iain Bonomy
Presiding

Dated this twenty-fourth day of November 2006
At The Hague
The Netherlands

[Seal of the Tribunal]