



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: 15 February 2007
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: 15 February 2007

PROSECUTOR

v.

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

SECOND ORDER ON AGREED FACTS

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*, recalls that on 11 July 2006 it ordered the parties (1) to make every effort to (a) reach agreement upon facts and (b) stipulate the authenticity and admission into evidence of documents on the Prosecution’s Rule 65 *ter* exhibit list; and (2) inform the Trial Chamber by 1 September 2006 of the extent of the agreement reached.

1. On 31 August 2006, the Defence filed a “Report on Agreed Facts Filed Jointly by the Defence,” informing the Chamber of the following:

- a. In relation to agreement to facts relevant to the trial, the parties have not reached any further agreement. The parties intend however to discuss these matters, using Annex A of the 11 July 2006 Order on Agreed Facts, as a basis.
- b. The Defence considers that the parties have made progress in reaching agreement on certain matters and requests that the Trial Chamber allow the parties to continue the process.

2. The Chamber notes the subsequent agreement of the parties in relation to the authenticity (and admissibility) of certain documents tendered by the Prosecution, many of which were reflected in the “Decision on Prosecution Motion to Admit Documentary Evidence,” issued 10 October 2006. The Chamber is now primarily concerned with any further agreement that the parties can reach upon the 388 proposed agreed facts, as set forth by the Prosecution or as modified as necessary and appropriate by the Defence, but also seeks the compilation of a comprehensive list of facts agreed by the parties, including those stipulated in their pre-trial briefs.¹

3. Recently, the Chamber and the parties have engaged in correspondence regarding the possibility of further agreement along the above lines, and the Chamber considers that it would be useful in this regard to set a final date by which the parties should report to the Chamber their progress. The Chamber notes Rule 65 *ter* (H) of the Rules of Procedure and Evidence of the Tribunal, which states, “The pre-trial Judge shall record the points of agreement and disagreement on matters of law and fact. In this connection, he or she may order the parties to file written submissions with either the pre-trial Judge or the Trial Chamber.” The Chamber reiterates that any agreement on matters of law or facts would advance the progress of the trial by avoiding the adducement of unnecessary evidence.

¹ Order on Agreed Facts, 11 July 2006.

4. Pursuant to Rules 54 and 65 *ter*, the Chamber hereby ORDERS *ex proprio motu* the parties
- a. to make every effort to (a) reach such further agreement as they can upon those of the outstanding 388 proposed agreed facts that remain and (b) stipulate the authenticity and admission into evidence of any tendered documents; and
 - b. inform the Trial Chamber on or before 9 March 2007 of the full extent of the agreement reached, via a written submission, filed jointly.

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



Judge Iain Bonomy
Presiding

Dated this fifteenth day of February 2007
At The Hague
The Netherlands

[Seal of the Tribunal]