



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: 5 April 2007  
Original: English

**BEFORE THE DUTY JUDGE**

**Before:** Judge Alphons Orie  
**Registrar:** Mr. Hans Holthuis  
**Decision of:** 5 April 2007

**PROSECUTOR**

v.

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

**DECISION ON OJDANIĆ MOTION FOR VARIATION OF TIME LIMIT AND  
FOR HEARING PURSUANT TO RULE 54 *BIS***

**Office of the Prosecutor**

Mr. Thomas Hannis  
Mr. Chester Stamp

**United States of America**

**North Atlantic Treaty Organisation**

**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

**I, Judge Alphons Orié**, acting in my capacity as Duty 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 (“Tribunal”), am seized of “General Ojdanić’s Motion for Shortening Time for Response and for Oral Hearing,” filed 2 April 2007 (“Motion”), and hereby render my decision thereon.<sup>1</sup>

1. In the Motion, the Ojdanić Defence requests that the time for the United States of America (“United States”) and the North Atlantic Treaty Organisation (“NATO”) be reduced, that any responses be filed by 9 April 2007, and that a hearing be set in this matter for 16 April 2007.<sup>2</sup> The Ojdanić Defence argues that there is good cause for this variation of time limits due to the fact that this matter—“General Ojdanić’s Motion for Binding Order to the United States, NATO, and General Wesley Clark,” filed 2 April 2007—must be resolved expeditiously so that the Ojdanić Defence is afforded sufficient time to analyse any compelled documentation in preparation for cross-examination of General Clark and to interview others in connection therewith.<sup>3</sup>

2. The United States opposes the Motion, requesting that the date for its response be set for 12 April 2007 and that a hearing be held no earlier than 19 April 2007.<sup>4</sup> The United States states that it recognises the benefit of accelerating the schedule in relation to this matter, but that it requires at least ten days to respond to the Motion and obtain the necessary internal, governmental clearances, especially since 6 and 9 April are holidays for both the Tribunal and the United States Embassy.<sup>5</sup>

3. Pursuant to Rule 28(D)(ii) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), where a case has already been assigned to a Trial Chamber and where the application is made within the normal Registry hours and the Trial Chamber is unavailable, it shall be dealt with by the Duty Judge if satisfied as to its urgency or that it is otherwise appropriate to do so in the absence of the Trial Chamber.

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<sup>1</sup> I note that the Ojdanić Defence styles its “General Ojdanić’s Motion for Binding Order to the United States, NATO, and General Wesley Clark,” filed 2 April 2007 (“Rule 54 *bis* Motion”), as being against not only the United States and NATO, but also against General Clark. Seeing as General Clark is an official of both the United States and NATO and is being provided as a witness under the provisions of Rule 70 of the Rules, I do not find it necessary to issue this order in relation to General Clark directly. Moreover, the United States represents in its Response that it intends to file a response to the Rule 54 *bis* Motion on behalf of both itself and General Clark.

<sup>2</sup> Motion, paras. 2–3.

<sup>3</sup> Motion, paras. 4–6. The matter of General Clark’s evidence is the subject of a pending interlocutory appeal. See *Prosecutor v. Milutinović et al.*, Case No. IT-05-87-AR73.1, Order Assigning Judges to a Case Before the Appeals Chamber, 22 March 2007.

<sup>4</sup> Response of the United States of America to General Ojdanić’s Motion for Shortening Time for Response and for Oral Hearing, 5 April 2007 (“Response”), paras. 3, 6.

<sup>5</sup> Response, para. 3.

4. On 28 June 2006, this trial was assigned to Trial Chamber III, Section 1.<sup>6</sup> The Motion was made within the normal Registry hours, and I have determined that the Trial Chamber is unavailable. I am satisfied that this matter is urgent and that it is appropriate to deal with it in the absence of the Trial Chamber, for purposes of setting a response time and the date and time for a hearing of this matter. I have also consulted the Presiding Judge of the Chamber in relation to this matter.

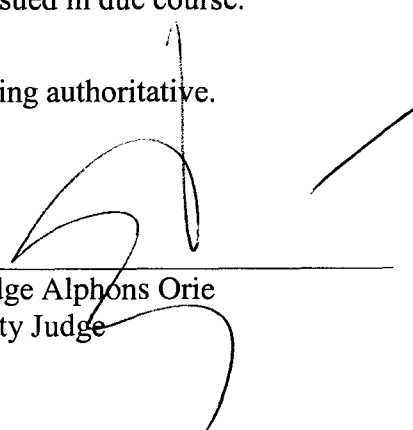
5. Based upon the schedule of the trial<sup>7</sup> and the submissions of the Ojdanić Defence and the United States, I find it appropriate to reduce the time for the response to the Motion, but not to the extent requested by the Ojdanić Defence. Concomitantly, I also consider that it is appropriate to set the time and date below for the hearing of this matter before the Trial Chamber.<sup>8</sup>

6. Pursuant to Rules 28(D)(ii), 54, 54 *bis*, 126 *bis*, and 127 of the Rules, I hereby ORDER as follows:

- a. The United States and NATO shall file a response (if any) to the Motion no later than 12 April 2007.
- b. There shall be no reply.<sup>9</sup>
- c. A hearing shall be held on this matter on 19 April 2007 at 2:15 p.m.

7. Further orders in relation to the above may be issued in due course.

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



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Judge Alphons Orié  
Duty Judge

Dated this fifth day of April 2007  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

<sup>6</sup> Order Assigning Judges to a Case Before a Trial Chamber, 28 June 2006.

<sup>7</sup> Order on Prosecution Motion to Postpone Close of Case-in-Chief, Pre-Defence Conference, and Commencement of Defence Case, 23 March 2007.

<sup>8</sup> Having heard from the United States on this matter, I find it appropriate to issue this decision without having heard from NATO. If, however, NATO wishes to have this decision altered or set aside, it may do so by 11 April 2007.

<sup>9</sup> Order on Procedure and Evidence, 11 July 2006, para. 11 (“Replies to responses will not be accepted by the Chamber unless on good cause shown.”).