



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: 4 July 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

**Decision of:** 4 July 2007

**PROSECUTOR**

v.

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

**PUBLIC**

**DECISION ON LUKIĆ MOTION FOR RECONSIDERATION OF  
DECISION ON PROVISIONAL RELEASE**

**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”) is seised of the “Motion to reconsider denial of Sreten Lukić’s renewed motion for provisional release”, filed confidentially by the Lukić Defence on 27 June 2007 (“Motion”), and hereby renders its decision thereon.

1. On 30 March 2007, Lukić (“Applicant”) filed a motion for provisional release,<sup>1</sup> which the Trial Chamber denied in its decision of 22 May 2007.<sup>2</sup> On 29 May 2007, the Applicant confidentially filed “Sreten Lukić’s Renewed Motion For Provisional Release” (“Renewed Motion”) in which he moved the Trial Chamber for temporary provisional release on compassionate grounds.<sup>3</sup> The basis for the Renewed Motion was the Applicant’s desire to return to Belgrade *inter alia* to visit his elderly father (who is in poor health and recovering from surgery) and his wife (who is also in poor health).<sup>4</sup>

2. Following the Prosecution’s filing of its response to the Renewed Motion,<sup>5</sup> the Trial Chamber rendered its decision on 25 June 2007 in which it considered that it was not appropriate that the Applicant be granted provisional release for a limited duration on compassionate grounds.<sup>6</sup>

3. In the Motion, the Applicant now moves the Trial Chamber to reconsider its 25 June Decision and to provisionally release him from detention to return to Belgrade for a period of five to seven days on terms identical to those set for other accused in this case.<sup>7</sup> As a compassionate ground, the Applicant relies on the frail and deteriorating health of his elderly father, who is unable either to fly or to drive to The Hague to visit the Applicant,<sup>8</sup> and whom the Applicant may not be able to see again if his Motion is denied.<sup>9</sup> The Trial Chamber notes that the Applicant’s father resides in Višegrad, a town and municipality located on the Drina river in eastern Bosnia and Herzegovina, and has been receiving treatment in Užice, a town across the border in Serbia.

<sup>1</sup> Sreten Lukić’s Motion for Provisional Release with Exhibits A, B and C, 30 March 2007.

<sup>2</sup> Decision on Lukić Motion for Provisional Release, 22 May 2007 (“22 May Decision”), para. 13.

<sup>3</sup> In the “Supplement to Sreten Lukić’s Renewed Motion for Provisional Release” filed confidentially on 14 June 2007, the Applicant provided the address at which he would reside in the event the Trial Chamber granted his motion for provisional release.

<sup>4</sup> Renewed Motion, paras 20–21, Exhibits A–B.

<sup>5</sup> Confidential Prosecution Response to Sreten Lukić’s Renewed Motion for Provisional Release, 5 June 2007.

<sup>6</sup> Decision on Lukić Motion for Temporary Provisional Release, 25 June 2007 (“25 June Decision”).

<sup>7</sup> Motion, para. 3.

<sup>8</sup> Motion, paras 5(a)–(e).

<sup>9</sup> Motion, para. 5(f).

4. In correspondence by email on 28 June 2007, the Prosecution indicated that it did not intend to file a written response to the Motion.<sup>10</sup>

5. Following a request from the Trial Chamber on 28 June 2007 for further information, the Applicant confidentially filed the “Supplement to Motion to Reconsider Denial of Sreten Lukić’s Renewed Motion for Provisional Release” on 29 June 2007 (“Supplement”). The Supplement contains a summary report from the orthopaedic surgeon who has been treating the Applicant’s father, and which details the Applicant’s father’s condition, together with a recommendation that, where travel is necessary, it should be undertaken by ambulance.

6. In its “Decision on Šainović Motion for Temporary Provisional Release”, issued 7 June 2007 (“7 June Šainović Decision”), the Trial Chamber detailed the law in relation to granting provisional release on compassionate grounds. Applying the same legal principles to the Applicant’s Motion, as well as those relevant to a motion for reconsideration,<sup>11</sup> the Trial Chamber considers that, in the circumstances of this case, it is not appropriate for the Chamber to reconsider its decision to deny the Motion. The Applicant has demonstrated that his father’s health precludes him from travelling to The Hague; however, the Applicant has failed to demonstrate how his provisional release to Belgrade, as requested, would enable him to visit his father, who resides in Višegrad (Bosnia and Herzegovina) and is unfit to travel. The Chamber has simply not been furnished with the basic, requisite information to enable it to dispose of the Motion favourably, despite its diligent efforts to furnish the Applicant with opportunities to this effect.

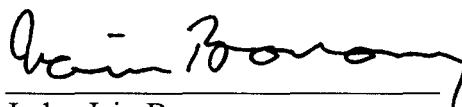
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<sup>10</sup> Email from Mr. T. Hannis (STA, Prosecution) to Mr. C. Black (Chambers Associate Legal Officer), 28 June 2007.

<sup>11</sup> The legal standard for reconsideration is as follows: “a Chamber has inherent discretionary power to reconsider a previous interlocutory decision in exceptional cases ‘if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent injustice.’” See Decision on Prosecution Motion for Reconsideration of Oral Decision Dated 24 April 2007 Regarding Evidence of Zoran Lilić, 27 April 2007, para. 4.

7. For the foregoing reasons and pursuant to Articles 20 and 21 of the Statute and Rules 54 and 65 of the Rules of Procedure and Evidence, the Trial Chamber hereby DENIES the Motion.

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



Judge Iain Bonomy  
Presiding

Dated this fourth day of July 2007  
At The Hague  
The Netherlands

[Seal of the Tribunal]