



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: 7 August 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: 7 August 2007

PROSECUTOR

v.

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

PUBLIC

**DECISION ON LUKIĆ MOTION TO BAR
PROSECUTION FROM CONTACTING WITNESSES**

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. Aleksander 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 is seised of “Sreten Lukić’s Motion for an Order Barring Contact with Defence Witnesses”, filed on 25 July 2007 (“Motion”), and hereby renders its decision thereon.

1. The Trial Chamber notes that the Motion was filed confidentially without an explanation therefor and that there is no immediately apparent reason why the Motion should have been filed as such. The Chamber recalls its recent “Decision on Defence Motions for Extension of Time to File Reports of Expert Witnesses,” issued on 20 June 2007, in which the Chamber stated as follows at paragraph 11:

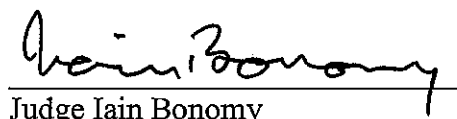
The Chamber notes that the Milutinović Motion and the Lukić Motion were filed confidentially, without any explanation; moreover, the Chamber cannot discern any confidential information therein. The Prosecution’s Response and Second Response were filed confidentially because of the manner in which the coordinate Motions were filed. The Chamber reminds the parties, once again, that submissions filed confidentially must be accompanied by an explanation therefor, especially where the reason for the need for confidentiality is not readily apparent.¹ These lapses of attention to detail and proper procedure needlessly force the parties, Chamber, and Registry to expend resources to remedy. In the future, the Chamber may consider ordering submissions filed confidentially without an explanation to be refiled in a proper manner before being decided, and any delay will be borne by the offending party.

2. Accordingly, the Trial Chamber, pursuant to Rules 54 and 78 of the Rules of Procedure and Evidence of the Tribunal, hereby DENIES the Motion without prejudice to the Lukić Defence refiled the Motion confidentially with an adequate explanation (bearing in mind the Chamber’s

¹ See, e.g., Decision on Prosecution Motion for Reconsideration of Decision on Prosecution Motion for Additional Trial-Related Protective Measure for Witness K56, 9 November 2006, para. 4 (“The Prosecution must justify filing documents in a confidential and/or *ex parte* manner, if it deems it necessary and appropriate to do so.”); confidential Order Lifting *Ex Parte* Status of Prosecution Ninth Motion for Protective Measures, 19 October 2006; *Prosecutor v. Delić*, Case No. IT-04-83-PT, Decision Regarding the Prosecution Motion for Protective Measures and Delayed Disclosure, 8 November 2006; *Prosecutor v. Perišić*, Decision on Prosecution’s Motion for Protective Measures, 10 October 2006; Rule 78 (“All proceedings before a Trial Chamber, other than deliberations of the Chamber, shall be held in public, unless otherwise provided.”).

preliminary assessment that there is nothing in the Motion requiring confidentiality) or refiling the Motion in a public manner.

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


Judge Iain Bonomy
Presiding

Dated this seventh day of August 2007
At The Hague
The Netherlands

[Seal of the Tribunal]