



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: 23 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: 23 August 2007

PROSECUTOR

v.

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

PUBLIC

**DECISION ON DEFENCE MOTIONS FOR FURTHER EXTENSION OF
DEADLINE FOR DISCLOSURE OF EXPERT REPORTS**

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 seized of Ojdanić’s “Motion for Further Extension of Deadline for Filing Report of Radovan Radinović,” filed on 6 August 2007; “Sreten Lukić’s Submission Pursuant to Trial Chamber Order of 3 August 2007,” filed confidentially on 6 August 2007; the “Joint Defence Request to Extend the Deadline for Filing the Translation of Professor Branimir Jokić’s Expert Report,” filed on 7 August 2007; the “Joint Defence Submission of Expert Report of Dr. Zoran Stanković, Pursuant to Rule 94 *bis*,” filed 9 August 2007; and the Prosecution’s “Response to Defence Submissions Regarding the Extension of the Deadline for Filing of Translation of Expert Reports,” filed on 9 August 2007, and hereby renders its decision thereon.

1. On 3 August 2007, the Trial Chamber issued its “Order re Disclosure of Expert Reports” (“Order”), in which it ordered the Defence to provide an explanation as to why the English translations of the expert reports of Radinović, Jokić, and Simonović remained pending, when the translations were expected to be provided, and when the Chamber could expect to receive a proper motion for a further extension of the deadline for disclosure.¹ With regard to Stanković and Pršić, the Chamber ordered the Defence to inform the Prosecution and the Chamber whether they still intended to call them as expert witnesses, when these reports (translated into English, where necessary) were expected to be disclosed, and when the Chamber could expect to receive a proper motion for a further extension of the deadline for disclosure.²

2. On 6 August 2007, the Ojdanić Defence filed a motion requesting that the time for filing the report of Radinović be extended to allow Conference Language Services Section (“CLSS”) to translate the report from BCS. The Defence explains that the reason the report was not submitted earlier to allow sufficient time for translation was because Radinović was awaiting the receipt of documents that are important to his analysis and that have been formally requested from the Government of Serbia.³ The Defence also informs the Chamber that it no longer intends to call Pršić as a witness.⁴

3. The Milutinović Defence responded to the Order on 6 August 2007 informing the Chamber that the translation of the Jokić report is expected by 15 October 2007. The Defence explained that it was unable to obtain the final report of Jokić prior to 30 July 2007, despite the best efforts of

¹ Order re Disclosure of Expert Reports, 3 August 2007, para. 4(a).

² Order re Disclosure of Expert Reports, 3 August 2007, para. 4(b).

³ Motion for Further Extension of Deadline for Filing Report of Radovan Radinović, 6 August 2007, para 3.

⁴ Motion for Further Extension of Deadline for Filing Report of Radovan Radinović, 6 August 2007, para 3.

Jokić to complete his opinion sooner, and that the Accused intended to file a motion for an extension for the deadline for disclosure.⁵ On 7 August 2007, the Defence submitted a joint request to extend the deadline for disclosure until 16 October 2007, the date upon which CLSS estimates the translation of the report will be complete. The Defence further explains that it was unable to obtain a final copy of the report earlier due to (a) the fact that Jokić experienced delays in receiving other reports, which he wanted to review and annex to his report, (b) delays in obtaining photographs, also for inclusion in his report, and (c) difficulties involving field work in Kosovo.⁶

4. Also on 6 August 2007, the Lukić Defence submitted its response to the Order, informing the Chamber that it did not have enough time to retain an expert and disclose his report due to “the very short time period given by the Trial Chamber” and the difficulties involving the obtainment and review of a large number of documents.⁷ The Defence requests an extension of the deadline for the disclosure of Simonović’s report to whenever the translation is received, which is expected to be 20 September 2007.⁸

5. With regard to Stanković’s report, the Lukić Defence informed the Chamber that it had been working closely with Stanković to prepare a concise report, that the final draft had been submitted to the other Defence teams, and that it hoped to file a final version within a 48-hour period.⁹ On 9 August 2007, the Defence filed Stanković’s expert report, requesting a further extension of the deadline for disclosure to permit CLSS to prepare a translation. In addition, the Lukić Defence explains that it took the lead in working with Stanković to analyse the evidence and prepare his work product while simultaneously engaged with Simonović.¹⁰ The Defence contends that it was therefore impossible to finish the Stanković report in a proper format prior to the 30 July 2007 deadline.

6. In the Prosecution’s response to the Defence submissions, it seeks to have the translations in a more timely fashion, arguing that a delay impacts the Prosecution’s ability to fully prepare for cross-examination, seeing as “[t]his case centers on an alleged criminal enterprise involving all six defendants.”¹¹ Accordingly, the Prosecution expresses concern in losing any potential lines of

⁵ Response to Order re Disclosure of Expert Reports in Relation to Professor Branimir Jokić, 6 August 2007, paras 4–5.

⁶ Joint Defence Request to Extend the Deadline for Filing the Translation of Professor Branimir Jokić’s Expert Report, 7 August 2007, para. 2.

⁷ Confidential Sreten Lukić’s Submission Pursuant to Trial Chamber Order of 3 August 2007, 6 August 2007, para. 5, p. 2, note 1, p. 3.

⁸ Confidential Sreten Lukić’s Submission Pursuant to Trial Chamber Order of 3 August 2007, 6 August 2007, para. 5.

⁹ Sreten Lukić’s Submission Pursuant to the Trial Chamber’s Order of 3 August 2007, 6 August 2007, para. 6.

¹⁰ Joint Defence Submission of Expert Report Of Dr. Zoran Stanković, Pursuant to Rule 94 bis, 9 August 2007, para. 3.

¹¹ Response to Defence Submissions Regarding the Extension of the Deadline for Filing of Translations of Expert Reports, 9 August 2007, para. 3.

inquiry relating to any witness called prior to the receipt and review of the translations. Moreover, in the case of Jokić, the Prosecution argues that two Defence teams will have called their entire list of witnesses and a third will probably be halfway completed before the Prosecution receives the translation of this expert's report.¹² The Prosecution therefore "seeks assistance from the Trial Chamber in order to receive the translations on an expedited basis."¹³ The Prosecution also requests that, in the event that the reports cannot be received any earlier than the dates noted in the submissions, the Defence be prohibited from calling any of the above noted experts prior to the end of the case. Additionally, the Prosecution reserves its right to seek to recall any witness who could bear on the contents of one of the reports for additional cross-examination.

7. In an effort to expedite the translation of these expert reports, the Trial Chamber has been in contact with CLSS, which has provided assistance in shortening the timeframe in which the completed translations can be expected. The revised, estimated completion dates are as follows: Radinović's estimated completion date is 15 September 2007; Stanković's estimated completion date is 22 August 2007; Simonović's estimated completion date is 1 September 2007; and Jokić's estimated completion date is 7 September 2007. The Chamber considers that this timeframe for the disclosure of the English translations will prevent any unfairness to the Prosecution, which may seek to recall any witnesses if and/or when the need arises during the Defence case.

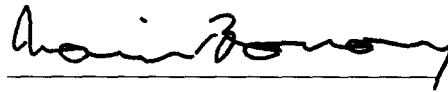
8. It should also be noted that the Lukić Defence filed its motion confidentially without an explanation therefor and that there does not appear to be any confidential information therein.

¹² Response to Defence Submissions Regarding the Extension of the Deadline for Filing of Translations of Expert Reports, 10 August 2007, para. 3.

¹³ Response to Defence Submissions Regarding the Extension of the Deadline for Filing of Translations of Expert Reports, 10 August 2007, para. 4.

9. Therefore, the Trial Chamber, pursuant to Rules 54, 94 *bis*, and 127 of the Rules of Procedure and Evidence of the Tribunal, hereby **GRANTS** the Defence Motions requesting an extension of the deadline for the disclosure of the expert reports and their translations in accordance with the estimates given by CLSS and **DIRECTS** the Registry to alter the status of “confidential Sreten Lukić’s Submission Pursuant to Trial Chamber Order of 3 August 2007,” filed 6 August 2007, from confidential to public.

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



Judge Iain Bonomy
Presiding

Dated this twenty-third day of August 2007
At The Hague
The Netherlands

[Seal of the Tribunal]