



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: 27 September 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: 27 September 2007

PROSECUTOR

v.

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

PUBLIC

**DECISION ON LUKIĆ MOTION TO COMPEL REGISTRY TO PROVIDE
VERBATIM TRANSCRIPT OF PROCEEDINGS**

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 “Sreten Lukić’s Submission Relative to Translation Verification of 31 August 2007 with Exhibit A,” filed 6 September 2007 (“Motion”), and hereby renders its decision thereon.

1. In the Motion, the Lukić Defence requests the Chamber “to take steps to ensure that the translation service is providing verbatim and accurate translation of the proceedings, so as to preserve the transcript record.”¹ It is argued that the transcript being provided by the Registry is “not acceptable.” The Lukić Defence continues as follows:

For purposes of preserving a proper record of these proceedings, and more importantly, for purposes of preparing cross examination, it is essential for the transcript and record of proceedings, as much as possible, [to] provide an accurate, verbatim record of the sworn testimony of witnesses. Without such a record, the integrity of these proceedings is called into question.

Although the translations being highlighted [in the Motion] do not have a drastically different meaning as translated, the concern is that if the practice of the translation service is to provide anything other than verbatim translation, then there is no telling what else has been in the past or will be in the future paraphrased, or summarized rather than being accurately translated.²

2. The Registry, on 25 September 2007, filed its “Submission of the Registrar Pursuant to Rule 33(B) on Sreten Lukić’s Submission Relative to Translation Verification” (“Submission”), explaining as follows:

The language service provided by the Registry during court proceedings at the Tribunal is interpretation and not translation. Interpretation is used for oral communication, whereas translation deals with transcription of the written word....

Simultaneous interpretation is the rendition of the speech in the target language as it is being delivered in the source language. Since interpreters, unlike translators, have to deal with fleeting messages in real time, synthesizing and editing are not only legitimate interpretation techniques but they are necessary to make it possible....

[T]he Registry notes that the level of accuracy and completeness of simultaneous interpretation services provided for hearings meets the highest standards expected of the profession.³

3. Rule 81 of the Rules of Procedure and Evidence of the Tribunal, entitled “Records of Proceedings and Evidence,” provides as follows: “The Registrar shall cause to be made and

¹ Motion, para. 4.

² Motion, paras. 3–4.

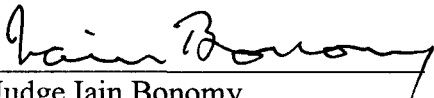
³ Submission, paras. 3–4, 7.

preserve a full and accurate record of all proceedings, including audio recordings, transcripts and, when deemed necessary by the Trial Chamber, video recordings.” The Chamber considers that nothing in the Rules requires that a “verbatim” transcript be created and maintained by the Registry; moreover, the Registry submits that such a thing could not even physically be done. The maintenance of transcripts for proceedings before the Tribunal has been entrusted to the Registry, which has been discharging its duty in relation thereto for well over a decade and in dozens of pre-trial, trial, and appellate proceedings. The Chamber would be most reluctant to usurp the competence and authority of the Registry in this area and would only contemplate doing so if there were an adequate showing that Lukić’s right to a fair and expeditious trial were in jeopardy.

4. The Lukić Defence, itself, concedes that an accurate record of the proceedings is essential only “*as much as possible*” and that “the translations being highlighted [in the Motion] do not have a drastically different meaning as translated.” The Chamber disagrees with the Lukić Defence that “the integrity of these proceedings [are being] called into question” and considers that an adequate basis for the requested relief has not been demonstrated. Parties may at any time draw the Chamber’s attention to specific issues of interpretation.

5. For the foregoing reasons and pursuant to Articles 20 and 21 of the Statute of the Tribunal and Rules 54 and 81, the Trial Chamber hereby DENIES the Motion.

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


Judge Iain Bonomy
Presiding

Dated this twenty-seventh day of September 2007
At The Hague
The Netherlands

[Seal of the Tribunal]