



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: 17 March 2008
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

Order of: 17 March 2008

PROSECUTOR

v.

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

PUBLIC

ORDER RE EXHIBIT 2D383

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 “Defence Request Regarding Exhibit 2D383,” filed by the Šainović Defence on 26 February 2008 (“Motion”), and hereby issues this order thereon.

1. On 9 August 2007, the Šainović Defence sought to have exhibit 2D383, portions of the first part of the BBC documentary entitled “The Fall of Milošević,” admitted into evidence from the bar table. The Defence asserted that the relevant portions contained statements of the following individuals: Hashim Thaci, Jacques Chirac, Xhavit Haliti, Rexhep Selimi, Richard Holbrooke, and Bardhyl Mahmuti. Moreover, the Šainović Defence noted that: (a) the video was primarily an exhibit of the Prosecution and did not contain anything that would lead one to believe it was not authentic and (b) parts of the video were already admitted into evidence.¹

2. On 22 August 2007, the Prosecution responded that, although it did not oppose the admission of the exhibit, the Šainović Defence failed to identify the exact portions of the video that it sought to tender into evidence and requested that the Šainović Defence clarify the matter.² On 23 August 2007, the Šainović Defence notified the parties and the Chamber of the relevant excerpts it wished to have admitted into evidence.³

3. On 4 September 2007, the Chamber ordered exhibit 2D383 to be marked for identification, pending a further order of the Chamber when and if the Šainović Defence tendered the Conference and Language Services Section (“CLSS”) transcript of the relevant portions of the video-recording.⁴ Moreover, in its decision, the Chamber noted its 20 November 2006 oral ruling that the Šainović Defence would need to tender as evidence CLSS translations of the relevant portions of the video-recording.⁵

4. In the Motion, the Šainović Defence informs the Chamber and the parties that it has transcribed, translated, and uploaded to eCourt the CLSS translations of the relevant portions of the

¹ Šainović Defence Motion Requesting Admission of Exhibits from the Bar Table, 9 August 2007.

² Response to Šainović’s Defence Motion Requesting Admission of Exhibits from the Bar Table, 22 August 2007.

³ Šainović Defence Notice Regarding Exhibit 2D383, 23 August 2007.

⁴ Decision on Šainović Motion Requesting Admission of Documents from Bar Table, 4 September 2007.

⁵ T. 6886–6887 (20 November 2006) (“So, Mr. Petrovic, if this -- if -- and this applies to everyone. If there’s going to be another occasion when this programme or any other of a similar nature is to be used as part of the evidence, then we will require a CLSS translation of the dialogue to be -- to accompany the viewing of the film, otherwise there is going to be this ongoing difficulty with interpretation. And so far as this one is concerned, the Trial Chamber orders you to get a CLSS translation of the two clips that you’ve actually shown so that we can then reflect the witness’s answers against what was actually said in the documentary.”).

video-recording, and requests that the video-recording and corresponding transcriptions be deemed collectively as exhibit 2D383 and admitted into evidence.

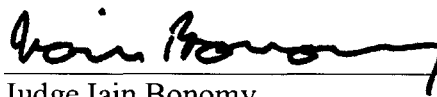
5. The Prosecution has indicated that it does not intend to respond to the Motion.

6. The Chamber notes that the video recording portion of exhibit 2D383 does not contain only the relevant portions offered by the Šainović Defence; rather, it is the entire first part of the BBC documentary, which is already designated as exhibit P770 in eCourt and has not been admitted into evidence.

7. Accordingly, the Trial Chamber, pursuant to Rules 54 and 89 of the Rules of Procedure and Evidence of the Tribunal, hereby ORDERS as follows:

- a. The Šainović Defence shall furnish the Chamber with a redacted version of the video-recording of exhibit 2D383, comprised of only the relevant portions of the video-recording that correspond to the translated and transcribed sections uploaded to eCourt as 2D00-1353.
- b. Once this is completed, the Šainović Defence shall inform the Chamber and the parties of such, after which the Chamber will decide its admission status.

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


Judge Iain Bonomy
Presiding

Dated this seventeenth day of March 2008
At The Hague
The Netherlands

[Seal of the Tribunal]