



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: 10 June 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: 10 June 2008

PROSECUTOR

v.

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

PUBLIC

**ORDER RE EXHIBITS 6D358, 6D459, 6D590, 6D805, 6D1056, 6D1307,
6D1325, 6D1423, 6D1425, AND 6D1634**

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 Lukic’s Request Regarding Exhibits 6D 718 and 6D 805”, filed on 22 May 2008 (“First Motion”); “Sreten Lukic’s Request Regarding Exhibits 6D 1056” (“Second Motion”), and “Sreten Lukic’s Request Regarding Exhibits 6D 1359, 6D 1365, 6D1423, and 6D 1425” (“Third Motion”), all filed on 30 May 2008; “Sreten Lukic’s Request Regarding Exhibits 6D 590” (“Fourth Motion”), “Sreten Lukic’s Request Regarding Exhibits 6D 1325” (“Fifth Motion”), “Sreten Lukic’s Request Regarding Exhibits 6D 265, 6D 293, 6D 333, 6D 334, 6D 349, 6D358, 6D782, 6D 989, 6D 1108, 6D 1307, 6D1331, 6D 1355, 6D 1418, 6D 1420, 6D 1421, 6D 1634, 6D 1665” (“Sixth Motion”),¹ and “Sreten Lukic’s Request to Replace the Translation and Admit into Evidence Document 6D 459” (“Seventh Motion”), all filed on 2 June 2008—(**collectively “Motions”**)—and hereby issues this order thereon.

1. On 24 January 2008, exhibit **6D1056**, entitled “58 lpbr, Operational report”, dated 30 April 1999, was marked for identification pending translation. The Lukić Defence noted that the document in eCourt had only one out of five pages. In the Second Motion, the Lukić Defence informs the Chamber and the parties that the complete original version of the document and its translation are now available and have been uploaded to eCourt; further, the Lukić Defence requests that exhibit 6D1056 and its translation be admitted into evidence. The Prosecution does not object. The revised original BCS version of exhibit 6D1056 shall replace the prior original version, and the revised version and its translation shall be admitted into evidence.

2. On 6 February 2008, during the examination of Radojko Stefanović, exhibit **6D1307**, entitled “Command of 7 pbr, Order to crush and destroy STS in region of village Kladernica”, dated 11 April 1999, was marked for identification pending translation. In the Sixth Motion, the Lukić Defence informs the Chamber and the parties that the English translation of exhibit 6D1307 is now available and has been uploaded to eCourt; further, the Lukić Defence requests that exhibit 6D1307, along with its translation, be admitted into evidence. During the examination of the witness, Chamber instructed the Lukić Defence to move onto a topic that did not depend upon an untranslated document; the Lukić Defence therefore abandoned its line of questioning that was based upon 6D1307 and moved onto something else.² The Chamber therefore is of the view that

¹ The documents subject to the Sixth Motion are decided in a separate order, except exhibits 6D358 and 6D1634, which are decided herein.

² T. 21735 (6 February 2008).

this document does not have the requisite probative value for admission into evidence, despite the lack of Prosecution objection.

3. On 8 February 2008, during the examination of Ljubivoje Joksić, exhibit **6D805**, entitled “Overview of terrorist attacks in KiM from 1991 to 1997, and Overview of terrorist attacks on the Albanian citizens loyal to the Republic of Serbia (from 1991 to 1997)”, was marked for identification pending translation.³ The Prosecution objected orally to the admission of 6D805 due to its vagueness. In the First Motion, the Lukić Defence informs the Chamber and the parties that a complete English translation for exhibit 6D805 is now available and has been uploaded to eCourt. Further, the Lukić Defence requests that exhibit 6D805, along with its translation, be admitted into evidence. Following the discussion in-court regarding this document and its relationship to the statement of Ljubivoje Joksić, the Chamber issued an oral ruling admitting portions of the statement into evidence, including paragraph 54 that refers to exhibit 6D805.⁴ The document along with its translation will be admitted.

4. On 28 February 2008, exhibit **6D459**, entitled “SUP Urosevac, Criminal denunciation”, dated 27 April 1999, was marked for identification pending complete translation. In the Seventh Motion, the Lukić Defence informs the Chamber and the parties that a complete English translation of 6D459 is now available and has been uploaded to eCourt. Further, the Lukić Defence requests that exhibit 6D459, along with its translation, be admitted into evidence. The Trial Chamber notes that in eCourt there are uploaded three different English translations of exhibit 6D459—a three-page translation, a seven-page one, and an eleven-page one. The Chamber presumes that the last is the most complete translation. The Prosecution does not object. It will be admitted, and the superfluous translations removed from the official record of the proceedings.

5. On 29 February 2008, exhibit **6D590**, entitled “Judgment No 38-95”, dated 17 July 1999, was marked for identification pending translation. Because the document has 142 pages, the Lukić Defence decided to send to the Conference and Language Services Section (“CLSS”) only the first and the last page of the document. In the Fourth Motion, the Lukić Defence informs the Chamber and the parties that the partial original and English translation is now available and has been uploaded to eCourt; further, the Defence requests that exhibit 6D590, along with its translation, be admitted into evidence. The Prosecution does not object. The Chamber will admit the translated portion of the document and the corresponding BCS original.

³ See 6D1491, 92 *ter* statement of Ljubivoje Joksić, para. 54.

⁴ T. 21920, 21931–21932 (8 February 2008).

6. On 10 April 2008, exhibit **6D1325**, entitled “Case file - policeman Voga Nikola”, dated 23 March 1999, was marked for identification pending translation. Since the last two pages of this five-page document were illegible, the Lukić Defence sent to CLSS the first three, legible pages. In the Fifth Motion, the Lukić Defence informs the Chamber and the parties that the partial (three-page) original and English translation are now available and have been uploaded to eCourt; further, the Lukić Defence requests that the partial original and its translation be admitted into evidence. The Prosecution does not object. The Chamber will admit the partial, legible original and its translation and instruct the Registry to remove the original, partially illegible version from the official record of the proceedings.

7. On 15 April 2008, during the examination of witness 6D2, exhibit **6D1634** was marked for identification pending translation. In the Sixth Motion, the Lukić Defence informs the Chamber and the parties that the English translation of exhibit 6D1634 is now available and has been uploaded to eCourt; further, the Lukić Defence requests that the document, along with its translation, be admitted into evidence under seal.⁵ The Prosecution does not object. The document, along with its translation, shall be admitted into evidence under seal.

8. On 21 April 2008, the Lukić Defence attempted to put exhibit **6D358** to witness 6D1; however, it was untranslated, the Prosecution objected, and it was marked for identification pending translation.⁶ In the Sixth Motion, the Lukić Defence informs the Chamber and the parties that an English translation of 6D358 is now available and has been uploaded to eCourt; further, the Lukić Defence requests that 6D358, along with its translation, be admitted into evidence. On 5 June 2008, the Prosecution filed a written objection to the admission into evidence of 6D358, requesting denial of 6D358 on the basis that the Lukić Defence asked the witness only a general question about the content of it, and then indicated it would not discuss the exhibit further, in light of the Prosecution objection;⁷ consequently, the Prosecution contends that no adequate showing of relevance or probative value has been shown.⁸ The Chamber considers that, when this document was put to the witness, the witness could say nothing about its contents other than what had been heard from colleagues. The Chamber therefore finds that this document does not have the requisite probative value for admission into evidence.

⁵ T. 25360 (15 April 2008).

⁶ T. 25688 (21 April 2008).

⁷ T. 25698 (21 April 2008).

⁸ Prosecution Response to Sreten Lukić’s Request Regarding Exhibits 6D265, 6D293, 6D333, etc., 5 June 2008. The Chamber denied the Lukić Defence’s request for leave to file a reply to this response. Order re Exhibits 6D265, 6D292, 6D293, 6D294, 6D333, 6D334, 6D335, 6D349, 6D360, 6D489, 6D538, 6D700, 6D718, 6D762, 6D782,

9. On 13 May 2008, the Chamber issued its “Order Regarding Admission of Documents Referenced in Expert Report of Branislav Simonović (Exhibit 6D668)”, and admitted into evidence a number of documents referenced therein: beyond those documents, there were a number of exhibits, utilised by Simonović, which were marked for identification pending translation; among them, there were the following two exhibits: **6D1423**,⁹ entitled “Rules on systematization of working places in MUP”, dated 19 February 1992, and **6D1425**,¹⁰ entitled “Law on All-People’s Defence (RS Official Gazette no. 25/84)”. In the Third Motion, the Lukić Defence informs the Chamber and the parties that, due to the size of legal text in question, it submits only the portions that are relevant to Simonović’s testimony, as follows: 6D1423, page 1 and 9 of the original BCS document; 6D1425, articles 41 and 115 (pages 1, 7, 27, and 28 of the original BCS document). Moreover, the Lukić Defence informs the Chamber and the parties that partial originals and English translations are now available and have been uploaded in eCourt. Further, the Defence requests that the exhibits, along with their translations, be admitted into evidence. The Prosecution does not object. The revised original BCS versions of exhibits 6D1423 and 6D1425 shall replace the prior versions, and shall be admitted into evidence, along with their translations.

10. Accordingly, the Trial Chamber, pursuant to Rules 54 and 89 of the Rules of Procedure and Evidence of the Tribunal, hereby GRANTS, in part, the Motions and ORDERS as follows:

- a. The revised original BCS version of exhibit **6D1056** shall replace the prior original version, and the revised version and its translation shall be admitted into evidence.
- b. Exhibit **6D1307** shall not be admitted into evidence.
- c. Exhibit **6D805** along with its translation shall be admitted into evidence.
- d. Exhibit **6D459**, along with its eleven-page translation, shall be admitted into evidence, and the Registry is INSTRUCTED to remove the superfluous translations from the official record of the proceedings.
- e. The two-page version of exhibit **6D590**, and its corresponding translation, shall be admitted into evidence, and the Registry is INSTRUCTED to remove the 142-page BCS original from the official record of the proceedings.

6D797, 6D887, 6D888, 6D989, 6D950, 6D1027, 6D1108, 6D1110, 6D1113, 6D1114, 6D1326, 6D1331, 6D1333, 6D1342, 6D1355, 6D1374, 6D1418, 6D1420, 6D1421, and 6D1665, 9 June 2008, para. 6.

⁹ Doc ID 6D22-0135.

- f. The newly-uploaded, three-page BCS original of exhibit **6D1325** along with its translation shall be admitted into evidence, and the Registry is INSTRUCTED to remove the original, partially illegible version from the official record of the proceedings.
- g. Exhibit **6D1634** along with its translation shall be admitted into evidence under seal.
- h. Exhibit **6D358** shall not be admitted into evidence.
- i. The revised original BCS versions of exhibits **6D1423** and **6D1425** shall replace the prior versions, and shall be admitted into evidence, along with their translations.

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



Judge Iain Bonomy
Presiding

Dated this tenth day of June 2008
At The Hague
The Netherlands

[Seal of the Tribunal]

¹⁶ Doc ID 6D22-0141.