



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: 18 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

Decision of: 18 June 2008

PROSECUTOR

v.

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

PUBLIC

**DECISION REGARDING JOINT DEFENCE MOTION REQUESTING
ADMISSION OF EXHIBIT 1D115**

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 “Joint Defence Motion Requesting the Admission into Evidence of the Signed Version of the Rambouillet Agreement, Dated 18 March 1999” and the “Annex to the Joint Defence Motion Requesting the Admission into Evidence of the Signed Version of the Rambouillet Agreement”, both filed on 16 June 2008 (“Motion”), and hereby issues this decision thereon.

1. In the Motion, the Defence requests jointly the admission of exhibit 1D115, namely the Rambouillet Agreement, into evidence. The Defence acknowledges that two copies of this Agreement are already in evidence (P474 and 1D98), but notes that these are versions dated 23 February 1999. 1D115 is offered in addition to these, because it bears the signature, on 18 March 1999, of the Kosovo Albanian delegation at Rambouillet. The Defence asserts that the admission of this exhibit is necessary “for the sake of completeness”.¹

2. The Prosecution has indicated to the Chamber that it does not intend to respond to this Motion.

3. The Chamber first notes that the Motion was filed on 16 June 2008, exactly one month from the day the last Defence witness was heard and the case of the sixth Accused was closed, and a little less than a month from the day when all outstanding exhibit matters were raised and/or dealt with by the Chamber.² In addition, the Chamber notes that exhibit 1D115, being a Milutinović Defence exhibit, was never listed on its Rule 65 *ter* list. Thus, this Motion represents, in essence, a motion to add an exhibit to the Milutinović Defence’s Rule 65 *ter* list and, as such, is also a motion for re-opening of its case. However, the Motion does not address these two issues.

4. Even if the Motion had addressed these issues, the Chamber would have been reluctant to admit this exhibit into evidence. First, as recalled by the Defence in the Motion, exhibit P474, which is a 23 February 1999 version of the Rambouillet Agreement, is in evidence in this case,³ as is exhibit 1D98, which also contains the 23 February 1999 version of the Agreement, together with a cover letter to the FRY/Serbian delegation at Rambouillet. Having compared the 23 February 1999 version of the Agreement with the version signed by the Kosovo Albanians on 18 March 1999, the Chamber notes that, with the exception of the signature page, the two are identical. In

¹ Motion, paras. 1–3.

² T. 26574 (21 May 2008).

³ See “Decision on Prosecution Motion to Admit Documentary Evidence”, dated 10 October 2006, para. 28.

addition, the Chamber notes that it heard evidence that the 23 February 1999 version of the Agreement was the version ultimately signed by the Kosovo Albanians on 18 March 1999.⁴ Accordingly, the Chamber sees no compelling reason to admit this document into evidence.

5. For the reasons stated above, the Trial Chamber, pursuant to Rules 54 and 89 of the Rules of Procedure and Evidence of the Tribunal, hereby DENIES the Motion.

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

Judge Iain Bony
Presiding

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

[Seal of the Tribunal]

⁴ See exhibit 1D32 (Republic of Serbia National Assembly - Shorthand minutes - first session of the first regular sitting on 23 March 1999), pp. 8–10.