



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 July 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: 10 July 2008

PROSECUTOR

v.

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

PUBLIC

**DECISION ON LAZAREVIĆ DEFENCE MOTION FOR ADMISSION OF DOCUMENTS
PURSUANT TO RULE 85(A)(vi)**

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 “Vladimir Lazarevic’s Motion to Admit Relevant Information for Purposes of Rule 85(A)(VI) Sentencing Mitigation,” filed confidentially on 9 July 2008 (“Motion”), and hereby renders its decision thereon.

1. In the Motion, the Lazarević Defence seeks to admit into evidence for the purposes of sentencing mitigation (a) a report from the Commanding Officer of the United Nations Detention Unit (“UNDU report”) and (b) a collection of the Accused’s medical records, in the event that he is convicted. The Prosecution has indicated that it does not intend to respond to the Motion.

2. Rule 85 provides as follows:

Rule 85
Presentation of Evidence

(A) Each party is entitled to call witnesses and present evidence. *Unless otherwise directed by the Trial Chamber in the interests of justice, evidence at the trial shall be presented in the following sequence:*

- (i) evidence for the prosecution;
- (ii) evidence for the defence;
- (iii) prosecution evidence in rebuttal;
- (iv) defence evidence in rejoinder;
- (v) evidence ordered by the Trial Chamber pursuant to Rule 98; and
- (vi) *any relevant information that may assist the Trial Chamber in determining an appropriate sentence if the accused is found guilty on one or more of the charges in the indictment.*

(B) Examination-in-chief, cross-examination and re-examination shall be allowed in each case. It shall be for the party calling a witness to examine such witness in chief, but a Judge may at any stage put any question to the witness.

(C) If the accused so desires, the accused may appear as a witness in his or her own defence.

[Emphasis added.]

3. The Trial Chamber considers that, despite the fact that information relevant for mitigation purposes should have been adduced long ago in the case, it is appropriate to admit the UNDU

report. However, the voluminous medical records, one of which is illegible, are in Dutch, rather than a working language of the Tribunal, and therefore cannot be assessed by the Chamber.

4. Accordingly, the Trial Chamber, pursuant to Rules 54, 85, and 89 of the Rules of Procedure and Evidence of the Tribunal, hereby GRANTS the Motion, in part, and ORDERS as follows:

- a. Exhibit 5D1460 shall be admitted into evidence.
- b. Exhibit 5D1461 shall not be admitted into evidence.

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

Judge Iain Bony
Presiding

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

[Seal of the Tribunal]