



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-98-32/1-T

Date: 27 January 2009

Original: English

IN TRIAL CHAMBER III

Before: Judge Patrick Robinson, Presiding
Judge Christine Van den Wyngaert
Judge Pedro David

Acting Registrar: Mr. John Hocking

Order of: 27 January 2009

PROSECUTOR

v.

**MILAN LUKIĆ
SREDOJE LUKIĆ**

PUBLIC

**ORDER ON PROVISION OF DOCUMENTS DURING
DEFENCE OF MILAN LUKIĆ'S CASE-IN-CHIEF**

The Office of the Prosecutor

Mr. Dermot Groome
Mr. Frédéric Ossogo
Ms. Laurie Sartorio
Mr. Stevan Cole
Ms. Francesca Mazzocco

Counsel for the Accused

Mr. Jason Alarid and Mr. Dragan Ivetić for Milan Lukić
Mr. Đuro Čepić and Mr. Jens Dieckmann for Sredoje Lukić

TRIAL CHAMBER III (“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”);

NOTING the Trial Chamber’s “Decision on Provision of Documents and Scheduling of Witnesses” filed on 9 July 2008 (“9 July 2008 Decision”), in which the Trial Chamber made, *inter alia*, a number of orders regarding time-limits for the provision of documents to be used by the Prosecution during its case-in-chief;

NOTING that, on 19 January 2009, the Prosecution submitted in court that the 9 July 2008 Decision “is directed towards the Prosecution and makes no reference specifically [...] to documents to be used by the Defence during examination-in-chief” and requested the Trial Chamber to apply the 9 July 2008 Decision to the Defence of Milan Lukić (“Defence”);¹

NOTING that, on 19 January 2009, the Defence stated that it had understood the 9 July 2008 Decision to apply to the Defence;²

NOTING that, on 19 January 2009, the Trial Chamber stated that the 9 July 2008 Decision “certainly applies” to the Defence, but that this would be made expressly clear;³

ORDERS that, so as to facilitate the efficient progress of the case, the Defence, during its case-in-chief, shall:

- 1) provide the Prosecution, the Registry, and the Trial Chamber with an electronic list of documents or material it intends to use in court during examination-in-chief no later than 72 hours prior to the testimony of the witness when the total number of pages exceed 100 and, in other cases, 48 hours in advance of the testimony of the witness;
- 2) submit its *final* list of documents or material to be used during examination-in-chief no later than 1600 hours on the working day prior to the testimony of the witness;
- 3) within those time-limits, release to the Prosecution, the Registry and the Trial Chamber, via the eCourt system, any documents or material that form part of the list of documents or material for use during examination-in-chief;

¹ Hearing, 19 January 2009, T. 4237.

² Hearing, 19 January 2009, T. 4238.

³ Hearing, 19 January 2009, T. 4237-4238.

- 4) should the Defence seek to use a document or material during the examination-in-chief of a witness that has not been so listed and disclosed, it may be permitted to do so on showing good cause for not so listing and disclosing it;

ORDERS the Defence, pursuant to Rule 67(A)(ii) of the Tribunal's Rules of Procedure and Evidence ("Rules"), to provide the Prosecution with copies of statements, if any, of all witnesses whom the Defence intends to call to testify at trial, including any statements of additional witnesses, which shall be provided prior to a decision being made to call the additional witnesses;

ORDERS that the Prosecution, during the Defence's case-in-chief, shall:

- 1) provide the Defence, the Registry, and the Trial Chamber with an electronic list of documents and material it intends to use during cross-examination at the commencement of the examination-in-chief of the relevant witness and immediately after he or she has made the solemn declaration pursuant to Rule 90(A) of the Rules;
- 2) within that time-limit, release to the Defence, the Registry and the Trial Chamber, via the eCourt system, any documents or material that form part of the list of documents or material for use during cross-examination;
- 3) should the Prosecution seek to use a document or material during the cross-examination of a witness that has not been so listed and disclosed, it may be permitted to do so on showing good cause for not so listing and disclosing it; and

CONFIRMS its oral order given at the pre-trial conference for the parties to provide an electronic list of witnesses with the names of the witnesses they expect to call the following week, and **ORDERS** that the list shall be provided on Wednesday of every week. The Defence will supplement that list with all known prior statements of the witnesses that are relevant to these proceedings.

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



Judge Patrick Robinson
Presiding

Dated this twenty-seventh day of January 2009
At The Hague
The Netherlands

[Seal of the Tribunal]