

**UNITED  
NATIONS**



Mechanism for International Criminal Tribunals

---

Case No. MICT-14-67-R.1

Date: 8 July 2015

Original: English

---

**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Presiding  
Judge William Hussein Sekule  
Judge Bakone Justice Moloto  
Judge Burton Hall  
Judge Liu Daqun

**Registrar:** Mr. John Hocking

**Decision of:** 8 July 2015

**PROSECUTOR**

**v.**

**SRETEN LUKIĆ**

***PUBLIC***

---

**DECISION ON SRETEN LUKIĆ'S APPLICATION FOR  
REVIEW**

---

**The Office of the Prosecutor:**

Mr. Hassan Bubacar Jallow  
Mr. Mathias Marcussen

**Counsel for Sreten Lukić:**

Mr. Dragan Ivetić

1. The Appeals Chamber of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” and “Mechanism”, respectively) is seised of “Sreten Lukić’s Request for Review Pursuant to Rule 146” filed confidentially with annexes A through D on 27 January 2015 (“Request”).<sup>1</sup> The Prosecution filed a confidential response on 9 March 2015.<sup>2</sup> Lukić filed a confidential reply on 24 March 2015.<sup>3</sup>

## I. BACKGROUND

2. In its Judgement of 23 January 2014, the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) upheld Lukić’s convictions under Counts 1 through 5 of the Indictment in part and affirmed the findings by Trial Chamber III of the ICTY (“Trial Chamber”) to the effect that Lukić, as Head of the Ministry of Interior Staff for Kosovo and *de facto* commander of Ministry of Interior forces deployed in Kosovo from mid-1998 to mid-1999, committed, through his participation in a joint criminal enterprise, deportation, other inhumane acts (forcible transfer), murder, and persecution as crimes against humanity, and murder as a violation of the laws or customs of war.<sup>4</sup> The ICTY Appeals Chamber also held that the Trial Chamber incorrectly found Lukić not guilty of persecution, through sexual assaults, as a crime against humanity but declined to enter a new conviction in this regard.<sup>5</sup> In addition, Lukić’s convictions for murder, as a violation of the laws or customs of war; murder and persecution, as crimes against humanity; and deportation and inhumane acts (forcible transfer) as crimes against humanity with regard to certain incidents were reversed.<sup>6</sup> Lukić’s sentence was reduced from 22 to 20 years of imprisonment.<sup>7</sup>

3. In his Request, Lukić submits that his convictions and sentence should be reviewed in light of the following purported “new facts, evidence and jurisprudence”:<sup>8</sup> (i) the deterioration of his

---

<sup>1</sup> See Order Assigning Judges to a Case Before the Appeals Chamber, 30 January 2015.

<sup>2</sup> Prosecution Response to Sreten Lukić’s Request for Review Pursuant to Rule 146, 9 March 2015 (confidential) (“Response”).

<sup>3</sup> Sreten Lukić’s Reply in Support of Sreten Lukić’s Request for Review Pursuant to Rule 146, 24 March 2015 (confidential) (“Reply”).

<sup>4</sup> See *Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Judgement, 23 January 2014 (“Appeal Judgement”), paras. 5, 11, 1284-1285, 1356, 1367-1451, 1847. See also *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Judgement, 26 February 2009 (“Trial Judgement”), vol. 3, paras. 937-938, 1130-1131.

<sup>5</sup> Appeal Judgement, para. 1604.

<sup>6</sup> Appeal Judgement, paras. 1845, 1847.

<sup>7</sup> Appeal Judgement, paras. 1845, 1847. See also Trial Judgement, vol. 3, para. 1212.

<sup>8</sup> Request, paras. 4-5, section IV.

health;<sup>9</sup> (ii) evidence related to an interdepartmental meeting held in Belgrade on 5 January 1999;<sup>10</sup> and (iii) the findings of the ICTY Appeals Chamber in its judgment in *Prosecutor v. Vlastimir Đorđević*, Case No. IT-05-87/1-A (“*Đorđević Appeal Judgment*”).<sup>11</sup>

4. The Prosecution responds that the Request should be dismissed as Lukić fails to meet any of the criteria for review under Article 24 of the Mechanism’s Statute (“Statute”) and Rule 146 of the Mechanism’s Rules of Procedure and Evidence (“Rules”).<sup>12</sup>

## II. APPLICABLE LAW

5. The Appeals Chamber observes that review proceedings are governed by Article 24 of the Statute and Rules 146, 147, and 148 of the Rules. A request to have the Appeals Chamber review a final judgment will be granted, if the moving party shows that the following cumulative conditions are met: (i) there is a new fact; (ii) the new fact was not known to the moving party at the time of the trial or appeal proceedings before the ICTY, the International Criminal Tribunal for Rwanda (“ICTR”), or the Mechanism; (iii) the new fact could not have been discovered through the exercise of due diligence; and (iv) the new fact could have been a decisive factor in reaching the original decision.<sup>13</sup>

6. The jurisprudence of the ICTY and ICTR has established that review of a final judgment is an exceptional procedure and not an additional opportunity for a party to re-litigate arguments that failed on trial or on appeal.<sup>14</sup> A “new fact”, within the meaning of the relevant provisions, consists of “new information of an evidentiary nature of a fact that was not in issue during the trial or appeal proceedings”.<sup>15</sup> It is irrelevant whether the new fact already existed before the original proceedings

---

<sup>9</sup> Request, paras. 4, 16-24; Request, Annexes A-C.

<sup>10</sup> Request, paras. 4, 25-32; Request, Annex D.

<sup>11</sup> Request, paras. 4, 33-48.

<sup>12</sup> Response, paras. 1-27. In addition, the Prosecution requests the Appeals Chamber to order Lukić to file a public redacted version of his submissions, following which the Prosecution will file a public redacted version of the Response. See Response, n. 1.

<sup>13</sup> See Article 24 of the Statute, Rule 146(A) of the Rules; See also *Juvénal Kajelijeli v. The Prosecutor*, Case No. ICTR-98-44A-R, Decision on Request for Review, 29 May 2013 (“*Kajelijeli Review Decision*”), para. 7; *Prosecutor v. Veselin Šljivančanin*, Case No IT-95-13/1-R.1, Decision with Respect to Veselin Šljivančanin’s Application for Review, 14 July 2010 (“*Šljivančanin Review Decision*”), p. 2; *Mladen Naletilić v. Prosecutor*, Case No IT-98-34-R, Decision on Mladen Naletilić’s Request for Review, 19 March 2009 (“*Naletilić Review Decision*”), para. 10.

<sup>14</sup> *Kajelijeli Review Decision*, para. 7; *Naletilić Review Decision*, para. 10.

<sup>15</sup> *Kajelijeli Review Decision*, para. 8; *Šljivančanin Review Decision*, p. 2.

or during such proceedings. What matters is “whether the deciding body and the moving party knew about the fact or not” in reaching its decision.<sup>16</sup>

7. In “wholly exceptional circumstances”, review may still be permitted even though the “new fact” was known to the moving party or was discoverable by it through the exercise of due diligence if a Chamber is presented with “a new fact that is of such strength that it *would* affect the verdict”<sup>17</sup> and determines that “review of its judgement is necessary because the impact of the new fact on the decision is such that to ignore it would lead to a miscarriage of justice”.<sup>18</sup>

### III. DISCUSSION

#### A. Preliminary Issue

8. The Prosecution requests the Appeals Chamber to order Lukić to file a public redacted version of his submissions and notes its intention to file a public redacted version of the Response.<sup>19</sup> The Appeals Chamber notes, in this respect, that Lukić has provided sufficient reasons for maintaining the confidentiality of his submissions in part, in light of the information he provides on his health and his reliance on certain confidential material.<sup>20</sup> Since all proceedings before the Mechanism shall be public unless there are exceptional reasons for keeping them confidential,<sup>21</sup> the Appeals Chamber finds it necessary, in the interests of justice, to order the parties to file public redacted versions of their submissions. For the same reasons, the Appeals Chamber renders this decision publicly.

#### B. Deterioration of Lukić’s Health

9. In his Request, Lukić relies on two medical reports and an expert opinion dated 11 and 13 February 2014, and 13 June 2014, respectively, to argue that his condition has drastically

---

<sup>16</sup> *Šljivančanin* Review Decision, p. 2, citing, *inter alia*, *Prosecutor v. Duško Tadić*, Case No. IT-94-1-R, Decision on Motion for Review, 8 August 2002 (“*Tadić* Review Decision”), para. 25.

<sup>17</sup> *Šljivančanin* Review Decision, pp. 2-3, citing, *inter alia*, *Tadić* Review Decision, para. 27 (emphasis in original).

<sup>18</sup> *Šljivančanin* Review Decision, p. 3, citing, *inter alia*, *Prosecutor v. Tihomir Blaškić*, Case No. IT-95-14-R, Decision on Prosecutor’s Request for Review or Reconsideration, 23 November 2006 (public redacted version), para. 8.

<sup>19</sup> Response, n. 1.

<sup>20</sup> Request, paras. 2, 29; Request, Annex D, pp. 1, 3-4; Reply, para. 4.

<sup>21</sup> Article 18 of the Statute and Rules 92, 131 of the Rules. See also *Prosecutor v. Radovan Stanković*, MICT-13-51, Decision on Stanković’s Appeal against Decision Denying Revocation of Referral and on the Prosecution’s Request for Extension of Time to Respond, 21 May 2014, n. 1; *Prosecutor v. Aloys Ntabakuze*, MICT-14-77-R, Decision on Ntabakuze’s *Pro Se* Motion for Assignment of an Investigator and Counsel in Anticipation of his Request for Review, 19 January 2015, para. 1, n. 7.

deteriorated since the conclusion of the proceedings against him and that this amounts to a new fact justifying the reduction of his sentence and his release.<sup>22</sup> Lukić maintains that the deterioration of his health is a new fact, which could not have been known earlier and would have been decisive for considering his poor health in mitigation at the time of sentencing.<sup>23</sup>

10. The Prosecution responds that Lukić fails to demonstrate any new fact for the purposes of review and that issues related to ill-health of a convicted person, in so far as they affect the execution of a sentence, can be referred to the President of the Mechanism.<sup>24</sup>

11. The Appeals Chamber observes that Lukić's condition was in issue at trial and on appeal, and the reports he relies upon for the purposes of his request are merely additional evidence going to proof of matters considered in the original proceedings.<sup>25</sup> Accordingly, the material submitted that relates to Lukić's health condition does not amount to a "new fact" for the purposes of review under Rule 146 of the Rules. In any case, Lukić's request for reduction of his sentence, and release on grounds of the recent deterioration of his health and diminished life expectancy, are more appropriately characterized as grounds in support of a request for early release. The Statute and Rules provide that the supervision of enforcement of sentences pronounced by the ICTY, and competence over requests for early release, lie within the powers of the President of the Mechanism.<sup>26</sup>

### **C. Meeting of 5 January 1999**

12. The Trial Chamber found that Lukić participated in a joint criminal enterprise, the common purpose of which was to ensure continued control over Kosovo by the Federal Republic of Yugoslavia and Serbian authorities through crimes of forcible displacement implemented, *inter alia*, by Ministry of Interior forces.<sup>27</sup> In this respect, the Trial Chamber concluded that Lukić, as Head of Ministry of Interior Staff, was the "bridge between those commanders [of various Ministry of Interior forces deployed in Kosovo under his command] and the policy and plans set in Belgrade" and was directly involved in planning and ensuring that day-to-day operations by these forces were

---

<sup>22</sup> Request, paras. 4, 16-24; Request, Annexes A-C.

<sup>23</sup> Request, paras. 23-24.

<sup>24</sup> Response, paras. 2, 5-7.

<sup>25</sup> Trial Judgement, vol. 3, para. 1203; Appeal Judgement, para. 1827.

<sup>26</sup> Statute, Article 25; Rules 127-128, 149-151 of the Rules.

<sup>27</sup> Trial Judgement, vol. 3, paras. 1114 -1133, 1138; Appeals Judgement, para. 11.

conducted in accordance with the plans set in Belgrade.<sup>28</sup> The Trial Chamber relied in this respect, *inter alia*, on evidence showing that Lukić had been present at high-level meetings with the leadership of the Federal Republic of Yugoslavia and Serbia in which the Plan for Combating Terrorism in Kosovo was discussed.<sup>29</sup>

13. On appeal, Lukić's challenges to the Trial Chamber's findings that he participated in the joint criminal enterprise, including that he was a "bridge" between the various Ministry of Interior forces and Belgrade, were dismissed.<sup>30</sup>

14. In support of his Request, Lukić relies on evidence related to an interdepartmental meeting, which was held on 5 January 1999 in Beli Dvor in Belgrade, on the activities of the defence forces in Kosovo and was attended by various high-level officials, including the Federal Republic of Yugoslavia President Slobodan Milošević, the President of the Republic of Serbia Milan Milutinović, Federal Deputy Prime Minister Nikola Šainović, Serbian Interior Minister Vljeko Stojiljković, Chief of the General Staff of the Yugoslav Army Colonel General Dragoljub Ojdanić, Commander of the 3rd Army Lieutenant General Nebojša Pavković, Colonel General Vlastimir Đorđević and Lukić.<sup>31</sup> The evidence submitted by Lukić suggests that, during the meeting, Lukić reported on the activities of the police forces both in coordination with the army and independently and that an action plan for preventing terrorism in Kosovo and Metohija was adopted.<sup>32</sup>

15. Lukić argues that the evidence on the 5 January 1999 meeting relates to "the meeting" on which his involvement with the plan for combating terrorism in Kosovo was founded,<sup>33</sup> shows that that meeting was "benign" in that there was no mention of any crime targeting Kosovo Albanians, and demonstrates that the Trial Chamber erred in finding that he had been involved in the plan's adoption.<sup>34</sup> He submits that, as this is the only meeting he attended in Belgrade before the crimes occurred, the relevant evidence demonstrates a "serious error" in that he was not a "bridge" between Belgrade and Kosovo for the purposes of the joint criminal enterprise.<sup>35</sup> Finally, since no

---

<sup>28</sup> Trial Judgement, vol. 3, paras. 1051, 1131.

<sup>29</sup> Trial Judgement, vol. 3, paras. 1024-1040, 1118.

<sup>30</sup> See Appeal Judgement, paras. 1284-1549.

<sup>31</sup> Request, Annex D, p. 6; Request, para. 29.

<sup>32</sup> Request, Annex D, pp. 7, 12.

<sup>33</sup> Request, para. 31, *referring to* Appeal Judgement, para. 1411.

<sup>34</sup> Request, paras. 30-31.

<sup>35</sup> Request, paras. 29-31; Reply, paras. 17-18.

reference is made to a “Joint Command”, the relevant evidence demonstrates that no such body existed in 1999.<sup>36</sup>

16. The Prosecution responds that the evidence submitted by Lukić does not demonstrate any new fact, was accessible with the exercise of due diligence and, in any event, would not have been decisive for the purposes of determining his criminal responsibility.<sup>37</sup>

17. At the outset, the Appeals Chamber notes that, contrary to Lukić’s submission,<sup>38</sup> the Trial Chamber determined that Lukić attended a meeting in which the plan for combating terrorism in Kosovo was adopted based on abundant evidence of his participation in a meeting on 21 July 1998.<sup>39</sup> This is a different event than the meeting of 5 January 1999, which concerns the evidence upon which Lukić relies. In any event, the Appeals Chamber notes that both Lukić’s participation and contribution to the joint criminal enterprise were extensively litigated at trial and on appeal.<sup>40</sup> In finding that Lukić was a member of the joint criminal enterprise, the Trial Chamber relied on various evidence related to the powers and functions of the Ministry of Interior Staff, which demonstrated the extent of Lukić’s involvement in planning, organizing, and controlling Ministry of Interior units in Kosovo.<sup>41</sup> The Trial Chamber also relied on evidence concerning various meetings held with the Ministry of Interior Staff, which were mostly chaired by Lukić and attended, at times, by high-level figures including the President of Serbia.<sup>42</sup> In addition, the Trial Chamber considered ample evidence of Lukić attending other high-level meetings involving Federal Republic of Yugoslavia and Serbian military and civilian leadership.<sup>43</sup> The Trial Chamber also had regard to the testimony of Nikola Šainović that, on 5 January 1999, Šainović had attended a “co-ordination” meeting in Beli Dvor in Belgrade together with the same officials as the meeting referred to by Lukić, including Lukić,<sup>44</sup> and the testimony by Nebojša Pavković that, on the same

<sup>36</sup> Request, para. 32. Reply, para. 19.

<sup>37</sup> Response, paras. 10-19.

<sup>38</sup> See Request, para. 31, referring to Appeal Judgement, para. 1411.

<sup>39</sup> See Appeal Judgement, para. 1411, referring to Trial Judgement, vol. 3, para. 1021 (“In his interview, Lukić confirmed attending a meeting convened by Milošević, which he believed was held in the beginning of July, at which Stojiljković, Đorđević, and Stevanović of the [Ministry of Interior] were present, as well as Milutinović, Šainović, Pavković, Matković, Minić, and Anđelković. The Chamber has already found that this meeting took place on 21 July 1998. Lukić stated that at this meeting Pavković presented the situation in Kosovo and proposed carrying out joint [Army of Yugoslavia] and [Ministry of Interior] operations in three or four phases. At this meeting the plan proposed by Pavković was adopted”). See also Trial Judgement, vol. 1, para. 995.

<sup>40</sup> Trial Judgement, vol. 3, paras. 1130-1131; Appeal Judgement, paras. 665-832, 1356-1451.

<sup>41</sup> Trial Judgement, vol. 3, para. 1050. See also Trial Judgement, vol. 3, paras. 1115, 1117-1120.

<sup>42</sup> Trial Judgement, vol. 3, paras. 1118, 1126-1127, 1050.

<sup>43</sup> Trial Judgement, vol. 3, paras. 1019-1040, 1125.

<sup>44</sup> Trial Judgement, vol. 3, para. 338.

date, he had attended a meeting with Milošević.<sup>45</sup> Lukić's challenges to the relevant findings of the Trial Chamber, including those concerning his role as Head of the Ministry of Interior Staff and his participation in the meetings of the "Joint Command", which was found to have been established in June 1998 to ensure greater coordination between the Ministry of Interior and Army of Yugoslavia forces in Kosovo,<sup>46</sup> were thoroughly examined on appeal and dismissed in their entirety.<sup>47</sup>

18. Accordingly, the evidence related to the 5 January 1999 meeting, is merely additional evidence of issues considered in the original proceedings and, as such, does not amount to new facts for the purposes of review under Rule 146 of the Rules.

#### **D. Đorđević Appeal Judgment**

19. The Trial Chamber convicted Lukić of committing, through his participation in a joint criminal enterprise, the crimes of deportation and other inhumane acts (forcible transfer) as crimes against humanity in relation to the forced displacement of thousands of Kosovo Albanians from Peć/Peja and Kosovska Mitrovica/Mitrovica.<sup>48</sup> On appeal, the ICTY Appeals Chamber rejected Lukić's challenge to these convictions based on his contention that the Trial Chamber ignored other possible causes of displacement of Kosovo Albanians.<sup>49</sup>

20. In his Request, Lukić relies on the *Đorđević* Appeal Judgment, which was rendered after the Appeal Judgment in his case, and argues that the ICTY Appeals Chamber's finding on deportation in *Đorđević* is a "new fact arising out of new jurisprudence",<sup>50</sup> which requires review of his conviction "of deportations to Montenegro"<sup>51</sup> to avoid a miscarriage of justice.<sup>52</sup> In relevant part, the ICTY Appeals Chamber reversed Đorđević's conviction for deportation with regard to the forced displacement of Kosovo Albanians from Peć/[Peja] and Kosovska Mitrovica/[Mitrovica] in

---

<sup>45</sup> Trial Judgement, vol. 3, para. 709.

<sup>46</sup> Trial Judgement, vol. 1, paras. 1044-1152, 1055-1056, 1059, 1078, 1109; Trial Judgement, vol. 3, paras. 306, 1024-1040.

<sup>47</sup> Appeal Judgement, paras. 665-832, 1356-1451.

<sup>48</sup> Trial Judgement, vol. 2, paras. 48, 727-729, 1181-1183, 1225-1231, Trial Judgement, vol. 3, para. 1138.

<sup>49</sup> See Appeals Judgement, paras. 616-624. See also *The Prosecutor v. Nikola Šainović et al.* Case No. IT-05-87-A, Defense [sic] Appellant's [sic] Brief Refiled, 7 October 2009, paras. 240-246.

<sup>50</sup> Request, para. 46.

<sup>51</sup> Request, paras. 41-42.

<sup>52</sup> Request, paras. 43-46. Lukić also submits that the *Đorđević* Appeal Judgment renders unsafe his conviction for deportation with regard to Kosovo Albanians from Žegra and Vladovo who were displaced to Macedonia. See Request, para. 48, referring to Trial Judgement, paras. 928, 935-936. Given that his submissions to this effect were left undeveloped, the Appeals Chamber will not consider this matter further.



Kosovo to Montenegro as it was not satisfied that, at the relevant time, there was a *de facto* border between Kosovo and Montenegro.<sup>53</sup>

21. The Prosecution responds that Lukić has failed to challenge this conviction on appeal, the *Dorđević* Appeal Judgment does not give rise to any new fact, and does not invalidate Lukić's convictions with regard to the same facts for both deportation and forcible transfer.<sup>54</sup> In addition, the Prosecution argues that Lukić is impermissibly seeking reconsideration of the Appeal Judgment.<sup>55</sup>

22. The Appeals Chamber considers that the relevant findings in the *Dorđević* Appeal Judgment do not amount to "new information of an evidentiary nature of a fact" and thus cannot be considered a new fact for the purposes of review under Rule 146 of the Rules.<sup>56</sup> In the Appeals Chamber's view, Lukić is essentially requesting reconsideration of the final judgment. However, in principle, the Appeals Chamber has no power to reconsider a final judgment in light of the legal analysis on the elements of a crime adopted by a subsequent Appeals Chamber judgment.<sup>57</sup>

23. In any event, the Appeals Chamber notes that Lukić appears to misapprehend the Trial Chamber's findings. Contrary to his submission that he was convicted of deportation to Montenegro,<sup>58</sup> the Trial Chamber convicted him of the deportation of Kosovo Albanians from Peć/Peja and Kosovska Mitrovica/Mitrovica across the border into Albania.<sup>59</sup> Although factual

<sup>53</sup> *Dorđević* Appeal Judgment, paras. 535-537. See also Request, para. 34.

<sup>54</sup> Response, paras. 20-26.

<sup>55</sup> Response, paras. 4, 21.

<sup>56</sup> See *Tharcisse Muvunyi v. Prosecutor*, Case No. ICTR-00-55A-R, Decision on Request for Variation of Protective Measures and Request for Review, 28 September 2012, para. 24 ("the Appeals Chamber considers that a finding made by a separate trial chamber on the criminal liability of another accused based on a different evidentiary record does not amount to a new fact for the purposes of review"); *Eliézer Niyitegeka v. The Prosecutor*, ICTR-96-14-R, Decision on Request for Review, 6 March 2007, para. 7 ("The Appeals Chamber is not satisfied that the *reasoning* applied in the *Rwamakuba* Trial Judgment constitutes new information of an evidentiary nature of a fact that was not in issue during the trial or appeal proceedings"); *Prosecutor v Goran Jelišić*, IT-95-10-R, Decision on Motion for Review, 2 May 2002, pp. 2-3 ("Noting the Applicant's submissions that a new fact has arisen, being the development, since the Appeal Judgment, in the case law of the Tribunal with respect to the approach to sentencing [...] Finding that the alleged new fact relied upon by the Applicant is not of an evidentiary nature and, therefore, that the Applicant has failed to show the existence of a new fact"). See also *Eliézer Niyitegeka v. Prosecutor*, Case No. MICT-12-16-R, Decision on Niyitegeka's Request for Assignment of Counsel, 6 November 2014, para. 8.

<sup>57</sup> See *Prosecutor v. Momčilo Perišić*, Case No. IT-04-81-A, Decision on Motion for Reconsideration, 20 March 2014, p. 2.

<sup>58</sup> See Request, para. 42.

<sup>59</sup> See with regard to Peć/Peja, Trial Judgment, vol. 2, para. 1182 ("these physical perpetrators intended the Kosovo Albanians to cross the border to Albania... A large number of them were deliberately transported by buses or went in their own cars, or on foot, to the border with Albania, while others went to Montenegro. At the border, the Kosovo Albanians who had travelled on the buses had to disembark and were told to walk across the border") (emphasis added). The reference to "the border" is described as "the Albanian border" in the relevant Trial Chamber's factual findings, see

findings were made as to the forcible displacement of Kosovo Albanians to Montenegro,<sup>60</sup> no conviction for deportation was entered in this regard.<sup>61</sup> Indeed, this is reinforced by the fact that Lukić was not charged with deportation of Kosovo Albanians to Montenegro.<sup>62</sup>

#### IV. DISPOSITION

24. For the foregoing reasons, the Appeals Chamber

**DISMISSES** the Request in its entirety;

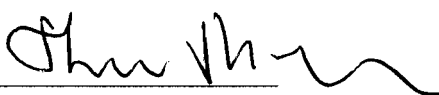
#### **ORDERS**

(1) Lukić to file public redacted versions of the Request and Reply by 23 July 2015; and

(2) The Prosecution to file a public redacted version of the Response by 30 July 2015.

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

Done this 8th day of July 2015,  
At The Hague,  
The Netherlands.



Judge Theodor Meron,  
Presiding Judge

[Seal of the Mechanism]

---

Trial Judgement, vol. 2, at para. 29. *See also*, with regard to Kosovska Mitrovica/Mitrovica town, Trial Judgement, vol. 2, para. 1225 (“large numbers of Kosovo Albanians were expelled from the town in an organised manner by the MUP. A number of people, including Aferdita Hajrizi, fled to nearby Žabare/Zhabar, but they were then ordered to return to Kosovska Mitrovica/Mitrovica town on 1 April. Two days later they travelled by bus to Montenegro, whence Hajrizi and her family subsequently went to Albania.” Further information on this incident is provided in Trial Judgement, vol. 2, paras. 705, 708 (“After a week in Montenegro, [Hajrizi and her family] moved to Albania”). *See also*, with regard to Kosovska Mitrovica/Mitrovica municipality, Trial Judgement, vol. 2, at para. 1230 (“large numbers of Kosovo Albanians were driven out of ... the Kosovska Mitrovica/Mitrovica municipality by the [Army of Yugoslavia] and the [Ministry of Interior]. The actions of these forces were part of the broader attack on the civilian population, as the villages of Kosovo Albanians ... were ordered to walk to *the Albanian border*” (emphasis added).

<sup>60</sup> *See* Trial Judgement, vol. 2, paras. 48, 727.

<sup>61</sup> *See* Trial Judgement, vol. 2, paras. 1182-1183, 1225-1231.

<sup>62</sup> *See Prosecutor v. Milan Milutinović et al*, Case No. IT-05-87-PT, (Redacted) Third Amended Joinder Indictment, paras. 72(e)-72(f).