



International Tribunal for the Prosecution of
Persons Responsible for Serious Violations of
International Humanitarian Law Committed in
the Territory of Former Yugoslavia since 1991

Case No. IT-98-32-I
Date: 15 December 2005
Original: English

IN THE REFERRAL BENCH

Before: Judge Alphons Orie, Presiding
Judge O-Gon Kwon
Judge Kevin Parker

Registrar: Mr. Hans Holthuis

Decision: 15 December 2005

PROSECUTOR

v.

MILAN LUKIĆ AND SREDOJE LUKIĆ

**DECISION ON PROSECUTOR'S MOTION TO SUSPEND
CONSIDERATION OF RULE 11 *BIS* REQUEST**

The Office of the Prosecutor:

Carla del Ponte
Mark B. Harmon
Frédéric Ossogo
Fergal Gaynor

Counsel for the Accused Sredoje Lukić:

Stevo Bezbradica

THIS REFERRAL BENCH 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;

BEING SEIZED OF the “Prosecutor’s Motion to Suspend Consideration of Rule 11 *bis* Request” (“Motion”) filed on 1 December 2005 whereby the Prosecution requests that the Referral Bench suspend consideration of the Request in respect of Milan Lukić until he has been transferred from Argentina to the seat of the Tribunal;

NOTING the “Motion by the Prosecutor under Rule 11 *bis*” of 1 February 2005 and the “Request by the Prosecutor under Rule 11 *bis*” of 1 February 2005 (“Request”), whereby the Prosecution requested to refer the case against Milan Lukić and Sredoje Lukić to the authorities of Bosnia and Herzegovina;

NOTING that on 16 September 2005, the Accused Sredoje Lukić was transferred to the seat of the Tribunal and that proceedings pursuant to Rule 11 *bis* have started since in order to allow him to present his case before the Referral Bench;

NOTING the “Defence Counsel’s Response to Prosecution’s Motion to Suspend Consideration of Rule 11 *bis* Request”, filed by the Counsel for Sredoje Lukić on 12 December 2005;

NOTING that the Referral Bench has not yet taken a decision in relation to the request for referral of the Accused Sredoje Lukić;

CONSIDERING that, as long as the Accused Milan Lukić remains detained in Argentina and is not transferred to the seat of the Tribunal, the Accused is not in a position to present his case in relation to the Request before the Referral Bench;

CONSIDERING that the Accused Milan Lukić and Sredoje Lukić are subject to one indictment because of the close interrelationship between the criminal activities of the two accused, as charged in the indictment;

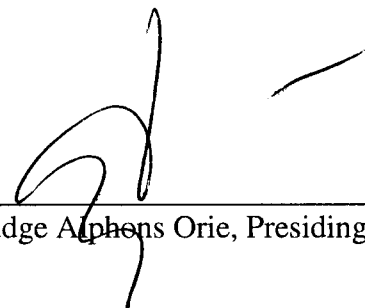
CONSIDERING that it would be preferable, *inter alia* in light of fairness to each Accused, judicial efficiency and economy, that a decision on the Prosecution Request against the two Accused could be taken at the same time and that a subsequent hearing of the case, wherever that may be, could take place against the two Accused together;

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 11*bis* and 54 of the Rules,

GRANTS the Prosecution's Motion and **SUSPENDS** consideration of the Request in respect of both Accused until Milan Lukić has been transferred to the seat of the Tribunal.

Done in English and French, the English text being the authoritative.
Done on this fifteenth day of December 2005
At The Hague,
The Netherlands



Judge Alphons Orie, Presiding Judge

[Seal of the Tribunal]