



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-PT

Date: 13 March 2007

Original: English

IN THE TRIAL CHAMBER

Before: Judge Krister Thelin, Pre-Trial Judge

Registrar: Mr. Hans Holthuis

Decision of: 13 March 2007

PROSECUTOR

v.

**MILAN LUKIĆ
SREDOJE LUKIĆ**

DECISION ON DEFENCE MOTION FOR RECONSIDERATION

Office of the Prosecutor

Mr. Mark B. Harmon
Mr. Frédéric Ossogo

Counsel for Milan Lukić

Mr. Alan L. Yatvin
Ms. Jelena Lopčić

Counsel for Sredoje Lukić

Mr. Đuro J. Čepić
Mr. Jens Dieckmann

I, Krister Thelin, a Judge 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”),

BEING SEIZED of the “Joint Motion of Defence Counsel for Milan Lukić and Sredoje Lukić for reconsideration of 14 September 2006 order of Pre-Trial Judge suspending consideration of motion for complete disclosure,” filed on 16 February 2007 (“Joint Motion”), wherein both Defence Counsel request that the Trial Chamber reconsider and lift its prior “Order suspending consideration of Sredoje Lukić's defence motion for complete disclosure pursuant to Rule 66 (A)(ii) and 66 (B)”, filed on 14 September 2006 (“Order suspending Disclosure”),¹

NOTING the Prosecution’s application for variation of time limits, filed on 7 March 2007 wherein it requested a variation of the time-limit set by the Pre-Trial Judge in order to respond to the Joint Motion,²

CONSIDERING the Decision on request for variation of time limits, filed on 8 March 2007, granting the Prosecution Request to respond to the Joint Motion,

CONSIDERING the Prosecution’s Response to the Joint Motion (“Prosecution Response”),³ wherein the Prosecution accepts the Defence’s argument to the extent that, in respect of the disclosure of 13 statements of witnesses who testified in the Vasiljević case and whom it intends to call at trial, “the burden in making disclosure is relatively light and that requiring disclosure will not significantly burden the resources of the Prosecution,”⁴

CONSIDERING that the Prosecution has indicated in its Response that it intends to seek protective measures with the Trial Chamber for 23 witnesses who testified in the Vasiljević case and whom it intends to call at trial,

¹ Order suspending consideration of Sredoje Lukić's defence motion for complete disclosure pursuant to Rule 66 (A)(ii) and 66 (B), 14 September 2006.

² According to the Trial Chamber’s “Decision on the oral request for reconsideration of decision suspending disclosure,” filed on 15 February 2007, the Prosecution was required to respond to the Motion within 7 days of date that it was filed.

³ The Prosecution Response is entitled “Prosecution's Response to Joint Motion of Defence Counsel for Milan Lukić for reconsideration of 14 September Order of Pre-Trial Judge suspending consideration of Motion for complete disclosure” and is dated 7 March 2007.

⁴ Prosecution Response, para. 7.

CONSIDERING that Rule 11*bis* proceedings have been pending before the Referral Bench since 21 February 2006,⁵ and that recently both Defence Counsel have requested an evidentiary hearing before the 11*bis* Referral Bench,⁶

CONSIDERING that, in order to facilitate the preparation of the defence and until such time that the Trial Chamber has made a final determination on the Joint Motion, it is in the interest of justice that the Order suspending Disclosure be partially lifted,

PURSUANT TO Rules 54 and 66 (A) (ii) of the Rules of Procedure and Evidence,

HEREBY PARTIALLY GRANT the Joint Motion and **ORDER** the Prosecution:

1. to provide to the Defence, within seven days of the date of this Decision, copies of the statements of 13 witnesses who testified in the Vasiljević case and whom it intends to call at trial,
2. to file, within three weeks of the date of this Decision, a reasoned request indicating the protective measures it will require in relation to the statements of 23 witnesses who testified in the Vasiljević case and whom it intends to call at trial.

The Trial Chamber remains seized of the Joint Motion and will issue further orders on the Joint Motion in due course.

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



Judge Krister Thelin
Pre-Trial Judge

Dated this thirteenth day of March 2007
At The Hague
The Netherlands

⁵ See *Prosecutor v. Lukić and Lukić*, Case No. IT-98-32-I, Request by the Prosecutor under Rule 11*bis*, 1 February 2005; Order Appointing a Trial Chamber for the Purpose of Determining whether an Indictment Should be Referred to Another Court under 11*bis*, 2 February 2005; *Prosecutor v. Lukić and Lukić*, Case No. IT-98-32/1-I, Certificate [of the Registrar], 26 June 2006; *Prosecutor v. Lukić and Lukić*, Case No. IT-98-32/1-PT, Decision on Prosecutor's Motion to Suspend Consideration of Rule 11*bis* Request, 15 December 2005; Order on Defence Motion for Further Extension of Time to File a Response, 17 May 2006, p. 1 n. 1; *Prosecutor v. Lukić and Lukić*, Case No. IT-98-32/1-I, Order for detention on remand, 21 February 2006, para. p. 1.

⁶ Joint Motion of Defence Counsel for Milan Lukić and Sredoje Lukić for leave to submit supplemental response to Prosecutor's request under Rule 11*bis* and for an evidentiary hearing, filed on 1 March 2007.