



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: 27 April 2007
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: 27 April 2007

PROSECUTOR

v.

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

DECISION ON PROSECUTION MOTION FOR ORDER OF NON-DISCLOSURE

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 seized of a confidential “Prosecution’s Motion for Order of Non-Disclosure,” filed on 24 April 2007 (“Motion”), and hereby renders its decision thereon.

1. In its Motion, the Prosecution states that it is in possession of material provided by the Government of the United States of America (“Rule 70 provider”) and that disclosure of this material was recently permitted under the auspices of Rule 68 of the Rules of Procedure and Evidence, provided that the Prosecution seek and obtain from the Chamber an order that the material is not to be disclosed to others apart from the Accused in this case and their respective Defence teams, without the prior approval of the Provider.¹

2. The Trial Chamber notes that Rule 70 provides, in relevant part, as follows:

(B) If the Prosecutor is in possession of information which has been provided to the Prosecutor on a confidential basis and which has been used solely for the purpose of generating new evidence, that initial information and its origin shall not be disclosed by the Prosecutor without the consent of the person or entity providing the initial information and shall in any event not be given in evidence without prior disclosure to the accused.

3. The Trial Chamber, based upon the submissions of the Prosecution, is satisfied that the material has been provided to the Prosecution by the Rule 70 provider on a confidential basis and that therefore the requirements of Rule 70 have been satisfied.²

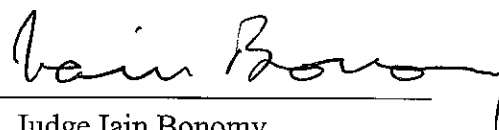
4. Pursuant to Rules 54 and 70, the Trial Chamber hereby **GRANTS** the Motion and **ORDERS** that the Prosecution, Accused, and their respective Defence teams, which include counsel and any employees who have been instructed or authorised to have access to confidential material, shall not disclose the material to any persons, governments, organisations, entities, clients, associations, or

¹ Motion, paras. 1–2, 6–7.

² See *Prosecutor v. Milošević*, Case No. IT-02-54-AR108bis & AR73.3, public version of the Confidential Decision on the Interpretation and Application of Rule 70, 23 October 2002, paras. 25, 29.

groups, without the prior approval of the Rule 70 provider.

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



Judge Iain Bony
Presiding

Dated this twenty-seventh day of April 2007
At The Hague
The Netherlands

[Seal of the Tribunal]