



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-05-87-T  
Date: 10 July 2006  
Original: English

**IN TRIAL CHAMBER III**

**Before:** Judge Iain Bonomy, Presiding  
Judge Ali Nawaz Chowhan  
Judge Tsvetana Kamenova

**Registrar:** Mr. Hans Holthuis

**Order of:** 10 July 2006

**PROSECUTOR**

v.

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

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**ORDER ARISING FROM HEARING ON SRETEN LUKIĆ'S RULE 54 *BIS*  
APPLICATION**

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**The Office of the Prosecutor**

Mr. Thomas Hannis  
Mr. Chester Stamp  
Ms. Christina Moeller  
Ms. Patricia Fikirini  
Mr. Mathias Marcussen

**Government of the Republic of Serbia**

Mr. Vladimir Cvetković

**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. Aleksander Aleksić for Mr. Nebojša Pavković  
Mr. Mihajlo Bakrač 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 (the “Tribunal”) is seized of “Sreten Lukić’s Motion, Pursuant to Rule 54 *bis* for a Binding Order Directed to Serbia-Montenegro for Production of Documents”, filed on 17 May 2006 (the “Application”).

1. In his Application, Lukić asks the Trial Chamber to order the Government of the Republic of Serbia (“Serbia”),<sup>1</sup> pursuant to Rule 54 *bis* of the Rules of Procedure and Evidence (the “Rules”), to produce to Lukić a number of documents which Lukić has sought in a number of requests to Serbia. Serbia filed a Response to Lukić’s Application<sup>2</sup> and Lukić submitted a Reply,<sup>3</sup> which the Trial Chamber has decided to consider. A hearing on the Application was held on 6 July 2006, at which time a representative of Serbia provided the Chamber with an “Updated Annex A to Serbia’s Response”.<sup>4</sup>

2. Having considered the written submissions and heard the parties in court, and having noted that a considerable number of documents have been delivered to Lukić in response to his requests, the Trial Chamber finds it appropriate for Lukić to reformulate his requests into two documents, which are to be submitted to Serbia and filed with the Tribunal on 12 July 2006 and 7 August 2006, respectively. Much of the Application refers to categories of documents, a number of the categories of requested documents overlap with one another and counsel for Lukić indicated at the hearing that he was unaware of which requested documents Serbia has by now produced and which Lukić still desires. The Trial Chamber gives its particular comments and instructions, with regard to the following paragraphs of the Application:

3. Paragraph 12(a): Lukić shall, by 12 July 2006, identify more precisely the documents sought under this paragraph which do not fall under another paragraph. Lukić should clarify, as counsel did at the hearing, that he is not asking for documents in the Albanian language.

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<sup>1</sup> Although the Application seeks an order directed to the “State Union of Serbia-Montenegro and its constituent governmental organs”, Application para. 31, given that the State Union of Serbia and Montenegro recently dissolved, that the relevant authorities discussed in the Application are Serbian rather than Montenegrin and that the parties agreed as much at the 6 July 2006 hearing, the Application will be construed as seeking an order directed to the Government of the Republic of Serbia.

<sup>2</sup> See Serbia and Montenegro’s Response Relating to the [sic] Sreten Lukić’s Motion, Pursuant to Rule 54 *bis*, for a Binding Order Directed to Serbia and Montenegro for Production of Documents, 2 June 2006 (the “Response”).

<sup>3</sup> See Sreten Lukić’s Motion for Leave to File Reply Brief Pursuant to Rule 54 *bis*, *Instantly*, 28 June 2006 (the “Reply”). Although Lukić filed his Reply after the deadline set in the Pre-Trial Chamber’s 21 June 2006 Scheduling Order for Further Filings and Hearing on Lukić Motion Pursuant to Rule 54 *bis*, the Trial Chamber accepts the explanation offered in the Reply for the late filing, and accepts the Reply as filed.

<sup>4</sup> Serbia tendered this submission, like Lukić, after a deadline previously set by the Trial Chamber. See Scheduling Order for Further Filings and Hearing on Lukić Motion Pursuant to Rule 54 *bis*, 21 June 2006. Although the Chamber accepts the Updated Annex A to Serbia’s Response because it assists the Chamber in addressing the

4. Paragraph 12(b): According to the Updated Annex A to Serbia's Response, this request was "[d]iscussed on the National Council Session from June 19, 2006" and is "[a]waiting Decision from the Government of Serbia." The Trial Chamber urges Serbia to make a decision within 14 days of this Order, and orders Serbia to file a submission within 21 days of this Order indicating its decision.

5. Paragraph 12(c): The Trial Chamber notes the technical difficulties Lukić has experienced in trying to access the documents produced on compact disc under this paragraph, and urges the parties to meet to resolve the difficulties. Lukić shall, by 7 August 2006, identify more precisely the documents sought under this paragraph which have not been produced and which do not fall under another paragraph.

6. Paragraph 12(e): Lukić shall, by 12 July 2006, identify more precisely the documents sought under this paragraph which have not been produced and which do not fall under another paragraph.

7. Paragraph 12(f): According to the Updated Annex A to Serbia's Response, documents relevant to this request concerning Đakovica were "discussed on the National Council Session from June 19, 2006" and are "[a]waiting Decision from the Government of Serbia." The Trial Chamber urges Serbia to make a decision within 14 days of this Order, and orders Serbia to file a submission within 21 days of this Order indicating its decision. Lukić shall, by 7 August 2006, identify more precisely the documents sought under this paragraph which have not been produced and which do not fall under another paragraph.

8. Paragraph 12(g): The Trial Chamber declines to make any order on this paragraph, and notes that the documents sought here are implicitly encompassed in other paragraphs. In addition, the Chamber considers it unduly burdensome for Serbia to reproduce to Lukić documents it previously produced to the Office of the Prosecutor on various occasions in response to various requests at different times.

9. Paragraph 12(h): According to Serbia's Response, "Minutes of the meetings of the collegiums of the Minister of Internal Affairs from 1998 to June 1999 . . . are in the procedure for forwarding to the Defense of the Accused Sreten Lukić". The Trial Chamber urges Serbia to produce those documents to Lukić within 14 days of this Order, and orders Serbia to file a submission within 21 days of this Order indicating the action taken. Lukić shall, by 7 August 2006,

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Application, it will be only in exceptional circumstances that the Chamber accepts late submissions made during the course of trial.

identify more precisely the documents sought under this paragraph which have not been produced and which do not fall under another paragraph.

10. Paragraph 12(i): It emerged at the hearing that this paragraph relates to either one or two telexes. Lukić shall, by 12 July 2006, identify more precisely the document(s) sought under this paragraph which have not been produced and which do not fall under another paragraph.

11. Paragraph 12(j): Lukić shall, by 12 July 2006, identify more precisely the documents sought under this paragraph which have not been produced and which do not fall under another paragraph.

12. Paragraph 12(k): The Trial Chamber is not persuaded by Serbia's oral submissions that the requested documents here – activity reports of organisations as prominent as the PJP, SAJ and JSO – are, as Serbia submits, “still being looked for by the Ministry of the Interior.” The Chamber urges the parties to meet to discuss the likely whereabouts of the documents sought. If the matter is not resolved by discussion, Lukić shall, by 7 August 2006, identify more precisely the documents sought under this paragraph which do not fall under another paragraph.

13. Paragraph 12(l): The Trial Chamber notes that Serbia misinterpreted this request as seeking one document known as “Information”, and notes that Serbia's denial of possession is based on that misinterpretation. The Chamber also notes that the Application seeks all documents regarding the disciplinary procedures taken against MUP personnel who refused to serve in KiM from 1998 to 1999. The Trial Chamber notes further that the representative of Serbia had no knowledge of the factual position relating to the documents. The Trial Chamber orders Serbia to file, within 21 days, a submission identifying which documents it has which fall into this description, and whether any other such documents existed but are no longer in Serbia's possession.

14. Paragraph 12(m): According to the Updated Annex A to Serbia's Response, the requested documents “will be discussed on the following session of the National Council (July 7, 2006).” The Trial Chamber urges Serbia to make a decision within 14 days of this Order, and orders Serbia to file a submission within 21 days of this Order indicating its decision.

15. Paragraph 12(n): According to the Updated Annex A to Serbia's Response, the requested documents were “discussed on the National Council Session from June 19, 2006” and are “awaiting the Decision from the Government of Serbia”. The Trial Chamber urges Serbia to make a decision within 14 days of this Order, and orders Serbia to file a submission within 21 days of this Order indicating its decision.

16. Paragraph 12(o): Lukić shall, by 12 July 2006, identify more precisely the documents sought under this paragraph which have not been produced and which do not fall under another paragraph.
17. Paragraph 12(p): The Trial Chamber is not persuaded by Serbia's oral submissions that the requested documents here – reports on the disruptions and failure of communication systems as a result of NATO's bombing – are, as Serbia submits, "still being looked for by the Ministry of Interior." The Chamber urges the parties to meet to discuss the likely whereabouts of the documents sought. If the matter is not resolved by discussion, Lukić shall, by 7 August 2006, identify more precisely the documents sought under this paragraph which do not fall under another paragraph.
18. Paragraph 12(q): Lukić shall, by 12 July 2006, identify more precisely the documents sought under this paragraph which have not been produced and which do not fall under another paragraph.
19. Paragraph 12(r): Lukić shall, by 12 July 2006, identify more precisely the documents sought under this paragraph which do not fall under another paragraph.
20. Paragraph 13(a): The Trial Chamber notes that this request, which seeks, among other things, "[o]fficial and other information relative to the events and the identities of persons killed in Kosovo-Metohija", lacks clarity. Lukić shall, by 12 July 2006, identify more precisely the documents sought under this paragraph which do not fall under another paragraph.
21. Paragraph 13(b): The Trial Chamber is surprised that Serbia has not provided Lukić with a complete copy of his service dossier. The Chamber urges Serbia to do so within 14 days of this Order, and orders Serbia to file a submission within 21 days of this Order indicating the action taken.
22. Paragraph 13(c): The Trial Chamber declines to make any order on this paragraph, and notes that the documents sought here are implicitly encompassed in paragraphs 12(f) and 12(q).
23. Paragraph 13(d): The Trial Chamber declines to make any order on this paragraph, and notes that the documents sought here are implicitly encompassed in paragraph 12(f).
24. Paragraph 16(a): Lukić shall, by 12 July 2006, identify more precisely the documents sought under this paragraph which do not fall under another paragraph. Lukić should clarify, as counsel did at the hearing, that he is not asking for documents in the Albanian language.

25. Paragraph 16(b): The Trial Chamber is not persuaded by Serbia's oral submissions that the requested documents here – reports of cooperation between Serbia and the Kosovo Verification Mission and other diplomatic missions – are, as Serbia submits, “still being looked for by the Ministry of Defence.” The Chamber urges the parties to meet to discuss the likely whereabouts of the documents sought. If the matter is not resolved by discussion, Lukić shall, by 7 August 2006, identify more precisely the documents sought under this paragraph which do not fall under another paragraph.

26. Paragraph 16(c): According to the Updated Annex A to Serbia's Response, the requested documents “will be discussed on the following session of the National Council that will be held on July 7, 2006.” The Trial Chamber urges Serbia to make a decision within 14 days of this Order, and orders Serbia to file a submission within 21 days of this Order indicating its decision.

27. Paragraph 16(d): Lukić shall, by 12 July 2006, identify more precisely the documents sought under this paragraph which do not fall under another paragraph.

28. Paragraph 16(e): Serbia indicates that one of the documents requested under this paragraph “will be forwarded to the Defence Team shortly”. The Trial Chamber urges Serbia to produce those documents to Lukić within 14 days of this Order. Lukić shall, by 7 August 2006, identify more precisely the documents sought under this paragraph which have not been produced and which do not fall under another paragraph.

29. Paragraph 16(f): The Trial Chamber declines to make any order on this paragraph, and notes that the documents sought here are implicitly encompassed in other paragraphs. In addition, the Chamber considers it unduly burdensome for Serbia to reproduce to Lukić documents it previously produced to the Office of the Prosecutor on various occasions in response to various requests at different times.

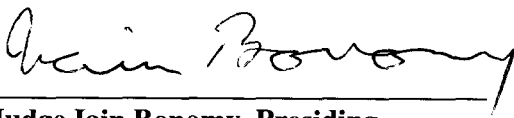
30. Paragraph 16(g): Serbia indicates that one of the documents requested under this paragraph “will be forwarded to the Defence Team shortly”. The Trial Chamber urges Serbia to produce those documents to Lukić within 14 days of this Order, and orders Serbia to file a submission within 21 days of this Order indicating the action taken. Lukić shall, by 7 August 2006, identify more precisely the documents sought under this paragraph which have not been produced and which do not fall under another paragraph.

31. Pursuant to Article 29 of the Statute of the Tribunal and Rules 54 and 54 *bis*, the Trial Chamber **ORDERS** as follows:

- (1) Lukić shall submit two reformulated requests to Serbia: one, due 12 July 2006, which complies with the comments and instructions set out in paragraphs 3, 6, 10, 11, 16, 18, 19, 20, 24 and 27 above; and the second, due 7 August 2006, which complies with the comments and instructions set out in paragraphs 5, 7, 9, 12, 17, 25, 28 and 30 above. When Lukić submits each reformulated request to Serbia, he shall also file a copy with the Tribunal;
- (2) the parties are urged to meet as often as necessary in the next 21 days to try to reach agreement on Lukić's requests;
- (3) Serbia shall, within 21 days of this Order, file a report as required by paragraphs 4, 7, 9, 13, 14, 15, 21, 26 and 30. Serbia is urged to produce the documents which it has already decided to produce, and to decide whether to produce the documents which have already been discussed by the National Council of Ministers for Cooperation with the ICTY;
- (4) insofar as matters are not resolved by the procedure set out in this Order, Lukić should file an amended Application no later than 21 August 2006. The amended Application, if filed, shall
  - (i) identify the particular documents sought under each paragraph of the Application which have not been produced and which do not fall under another paragraph of the Application; and
  - (ii) explain the steps that Lukić has taken to secure Serbia's assistance;
- (5) Serbia may file a response no later than 25 August 2006.

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

Dated this tenth day of July 2006.  
At The Hague,  
The Netherlands.

  
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**Judge Iain Bonomy, Presiding**

**[Seal of the Tribunal]**