

IT-98-32/1-T
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23 October 2008

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UNITED
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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-T

Date: 23 October 2008

Original: English

IN TRIAL CHAMBER III

Before: Judge Patrick Robinson, Presiding
Judge Christine Van den Wyngaert
Judge Pedro David

Registrar: Mr. Hans Holthuis

Decision of: 23 October 2008

PROSECUTOR

v.

**MILAN LUKIĆ
SREDOJE LUKIĆ**

PUBLIC

**DECISION ON PROSECUTION MOTION TO ADD
UPDATED STATEMENT OF AMOR MAŠOVIĆ
AND TABLES**

The Office of the Prosecutor

Mr. Dermot Groome
Mr. Frédéric Ossogo
Ms. Laurie Sartorio
Mr. Stevan Cole
Ms. Francesca Mazzocco

Counsel for the Accused

Mr. Jason Alarid for Milan Lukić
Mr. Đuro Čepić and Mr. Jens Dieckmann for Sredoje Lukić

TRIAL CHAMBER III (“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”);

BEING SEISED of the “Prosecution motion for leave to add updated statement and tables for Amor Mašović with Annexes A, B, and C”, filed on 22 September 2008 (“Motion”), in which the Prosecution requests leave to add a statement of Amor Mašović and associated exhibits “to the 92 *bis* material” and requests to have them admitted into evidence upon fulfilment of the requirements of Rule 92 *ter* of the Rules of Procedure and Evidence (“Rules”);¹

NOTING that on 22 August 2008 the Trial Chamber ordered the admission into evidence, upon the fulfilment of the requirements of Rule 92 *ter*, of the transcript of the testimony of Amor Mašović from the case *Prosecutor v. Vasiljević, Case No. IT-98-32-T* (“*Vasiljević* case”) as well as associated exhibits into evidence, in particular tables listing persons missing from the Višegrad municipality and tables relating to exhumations conducted within Višegrad municipality (“Old Tables”);²

NOTING the Prosecution submission that Amor Mašović continued to identify missing persons and conduct exhumations between 2001 and 2008 and that he produced a statement (“Statement”) and updated tables covering the period of 2000 through 2008 (“New Tables”);³

NOTING the Prosecution submission that it seeks leave to add the Statement and the New Tables in order to provide “current information” to the Trial Chamber;⁴

NOTING that in its response filed on 7 October 2007, the Defence of Milan Lukić requests to deny the Motion and to “reject the updated report of Amor Mašović as untimely and thereby prejudicial to the Defence”;⁵

¹ Motion, para. 6.

² Decision on Prosecution motion for admission of evidence pursuant to Rule 92 *bis*, 22 August 2008.

³ Annexes A and B to the Motion.

⁴ Motion, para. 5.

⁵ Milan Lukić’s response to Prosecution motion for leave to add updated statement and tables for Amor Mašović with Annexes A, B, and C, filed on 7 October 2008.

NOTING that in its reply, the Prosecution submits that the revised court schedule in the present case would give the Defence sufficient time to review the Statement and the New Tables;⁶

NOTING that the Prosecution further submits that the admission of the Statement and the New Tables would enhance the efficiency of the trial proceedings as Amor Mašović would not need to give additional testimony about the identification of missing persons and exhumations conducted in the years 2000-2008 when he appears in court;⁷

NOTING that in the Statement, Amor Mašović describes his work in various commissions dealing with missing persons and gives a summary about the exhumations conducted in the area of Višegrad in the years 2000-2008;

CONSIDERING that the New Tables contain the most recent information about persons missing and persons being exhumed in the area of Višegrad;

CONSIDERING that the Statement and the New Tables are relevant and have probative value in the present case;

CONSIDERING that both the New Tables and Old Table A are attached in Annex A to the Motion and are highlighted to reflect those persons who have been added or removed from the Old Tables since 25 September 2001, thus making it easy to compare the Old and New Tables;

NOTING the Prosecution submission that it received the Statement and the New Tables only in the beginning of September 2008 and that it disclosed the Statement and the New Tables to the Defence on 19 September 2008;⁸

CONSIDERING that in accordance with the scheduling order of 9 October 2008 Amor Mašović will not be scheduled to testify before the resumption of the Prosecution case on 27 October 2008, thus giving the Defence extra time to review the Statement and the New Tables;⁹

⁶ Prosecution reply to "Milan Lukić's response to Prosecution motion for leave to add updated statement and tables for Amor Mašović with Annexes A, B, and C", 13 October 2008 ("Prosecution Reply"), paras 3, 6, 7.

⁷ Reply, para. 8.

⁸ Motion, para. 3; Reply, para. 4.

⁹ Trial hearing, 9 October 2008, T. 2763-2764.

NOTING the Prosecution submission that a Curriculum Vitae of Amor Mašović is attached in Annex C to the Motion and that the English translation of that Curriculum Vitae would be immediately disclosed to the Trial Chamber when it becomes available;¹⁰

NOTING that the Trial Chamber has not yet received the Curriculum Vitae of Amor Mašović in a working language of the Tribunal;

CONSIDERING that the Curriculum Vitae cannot be admitted before the Trial Chamber has been provided with the translation;

PURSUANT TO Rules 92 *ter* and 126 *bis*;

GRANTS the Prosecution leave to reply to the Defence Response;

GRANTS the Motion **IN PART**;

ORDERS that the Statement and the New Tables will be admitted into evidence upon fulfilment of the requirements of Rule 92 *ter*; and

ORDERS the Prosecution to file the updated Curriculum Vitae of Amor Mašović in a working language of the Tribunal by 27 October 2008.

¹⁰ Motion, para. 4.

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



Judge Patrick Robinson
Presiding

Dated this twenty-third day of October 2008

At The Hague

The Netherlands

[Seal of the Tribunal]