



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: 17 August 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: 17 August 2007

PROSECUTOR

v.

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

PUBLIC

DECISION ON VIDEO-CONFERENCE LINK FOR ALEKSANDAR VASILJEVIĆ

Office of the Prosecutor

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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 seised of the “Prosecution Response to Defence Request Seeking Admission of Written Statement into Evidence”, filed on 9 August 2007 (“Motion”), requesting that, should the Trial Chamber allow the Defence to recall Aleksandar Vasiljević, the Prosecution be allowed to examine the witness via video-conference link in order to forestall the necessity of his travel to The Hague a second time,¹ and hereby renders its decision thereon.

1. Having been seised of a request by the Šainović Defence for the admission of a written statement of the witness,² the Chamber rendered an oral ruling on 17 August 2007, ordering that that the Šainović Defence may recall the witness for additional cross-examination, after which the Prosecution may re-examine. The Chamber also ordered that the other Accused may apply to the Chamber to conduct further cross-examination of the witness on a limited basis. The Chamber finally ordered, pursuant to Rule 81 *bis* of the Rules of Procedure and Evidence of the Tribunal, that the witness may give his evidence via video-conference link and that a formal, written order to this effect would be issued in due course.

2. The Chamber notes that Rule 81 *bis*, entitled “Proceedings by Video-Conference Link,” provides as follows: “At the request of a party or *proprio motu*, a Judge or a Chamber may order, if consistent with the interests of justice, that proceedings be conducted by way of video-conference link.” In light of the foregoing, the Chamber considers it to be consistent with the interests of justice to permit the witness to appear before the Chamber via video-conference link. Although the Prosecution has made the motion for a video-conference link, due to the particular circumstances of this case, the Chamber considers that it is appropriate for the Šainović Defence to coordinate the arrangements for the link with the Registry.

¹ Prosecution Response to Defence Request Seeking Admission of Written Statement into Evidence, 9 August 2007, para. 4.

² Defence Request Seeking Admission of Written Statement into Evidence, 26 July 2007.

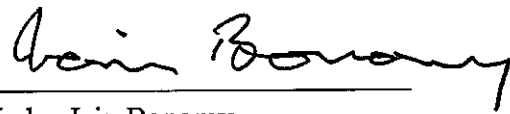
3. For the foregoing reasons and pursuant to Rules 54 and 81 *bis*, the Trial Chambers hereby **GRANTS** the Motion and **ORDERS** that the further evidence Aleksandar Vasiljević shall be received via video-conference link and **DIRECTS** the Registry, in coordination with the Šainović Defence, to take all steps reasonably necessary to ensure that the video-link conference is established under the following conditions:³

- (a) The Šainović Defence shall make arrangements for an appropriate location from which to conduct the proceedings. The venue must be conducive to the giving of truthful and open testimony. Since the witness was called by the Prosecution during its case-in-chief, the Prosecution shall assist in organising the attendance of the witness at the arranged time and location.
- (b) The safety and solemnity of the proceedings at the location must be guaranteed.
- (c) The Prosecution and the Registry must be informed at every stage of the efforts of the Šainović Defence, and they must be in agreement with the proposed location. Where no agreement is reached on an appropriate location, the Trial Chamber shall hear the parties and the Registry and make a final decision.
- (d) The Trial Chamber will appoint a Presiding Officer to ensure that the testimony is given freely and voluntarily. The Presiding Officer will identify the witness and explain the nature of the proceedings and the obligation to speak the truth. The Presiding Officer will inform the witness that he or she is liable to prosecution for perjury in case of false testimony, will administer the taking of the oath, and will keep the Trial Chamber informed at all times of the conditions at the location.
- (e) The testimony shall be given in the physical presence only of the Presiding Officer and, if necessary, of a member of the Registry technical staff, unless the Trial Chamber decides otherwise.
- (f) The witness must, through a monitor, be able to see, at various times, the Judges, the Accused, and the questioner. The Judges, the Accused, and the questioner must each be able to observe the witness on their monitor.

³ Cf. *Prosecutor v. Tadić*, Case No. IT-94-1-T, Decision on the Defence Motions to Summon and Protect Defence Witnesses, and On the Giving of Evidence by Video-Link, 25 June 1996, para. 22.

- (g) A statement made under solemn declaration by a witness shall be treated as having been made in the courtroom and the witness shall be liable to prosecution for perjury in exactly the same way as if he or she had given evidence at the seat of the Tribunal.

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



Judge Iain Bonomy
Presiding

Dated this seventeenth day of August 2007
At The Hague
The Netherlands

[Seal of the Tribunal]