



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: 23 May 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

Order of: 23 May 2007

PROSECUTOR

v.

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

PUBLIC

ORDER RE PROSECUTION REQUEST PURSUANT TO RULE 77

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 seised of the “Urgent Prosecution Notification of Interference with Prosecution Witness and Request for Direction from the Trial Chamber with Annexes A and B”, filed on 13 April 2007 (“Notification”), the “Prosecution Response to Trial Chamber’s Inquiry Regarding Prosecution Witness”, filed 23 April 2007 (“Response”), and the partially confidential “Prosecution Submissions in Compliance with Order on Prosecution Notification of Interference With Prosecution Witness *with Confidential Annexes A and B*”, filed 18 May 2007 (“Submissions”), and hereby issues this order in relation thereto.

1. On 12, 13, and 14 March 2007, Lakić Đorović testified before the Chamber as a witness in these proceedings. He gave evidence about the justice system within the Vojska Jugoslavije and his experiences as a Military Prosecutor in the Republic of Serbia (“Serbia”) and Kosovo in 1999.¹ During his testimony, he discussed threats he had received in Serbia in relation to his coming to The Hague to testify.² One month later, the Prosecution publicly filed the Notification, in which it describes incidents that befell Mr. Đorović following his return to Serbia, *inter alia*, being arrested on 10 April 2007 and being threatened with physical violence and with loosing his military post.³

2. The Chamber essayed to obtain additional information regarding the alleged maltreatment of Mr. Đorović both from the Prosecution and through diplomatic channels with the assistance of the President of the Tribunal.⁴ On 23 April 2007, the Prosecution filed the Response, in which it provides the Trial Chamber with the identities of the commanding officers of the persons who arrested Mr. Đorović. On 24 April and 7 May 2007, letters were received from the President of the National Council for Cooperation with the International Criminal Tribunal for the former Yugoslavia, Mr. Rasim Ljajić, who communicated to the President of the Tribunal that inquiries had been made into the matter and that the claims made by Mr. Đorović were not true.⁵ The second letter contained information regarding what Mr. Ljajić deemed to be the problematic behaviour of Mr. Đorović and purported to provide information imparted to Mr. Ljajić by “the certain security department” regarding the incident on 10 April 2007.⁶

¹ T. 11419–11519 (12 March 2007), 11520–11658 (13 March 2007), 11659–11730 (14 March 2007).

² T. 11515–11518 (12 March 2007).

³ Notification, Annex B.

⁴ Order on Prosecution Notification of Interference with Prosecution Witness, 11 May 2007 (“Order of 11 May 2007”), paras. 3–5.

⁵ *Ibid.*, Annex A, p. 2.

⁶ *Ibid.*, Annex B, pp. 2–3.

3. Following this, the Trial Chamber considered that it would be appropriate to furnish the Prosecution with an opportunity to respond to these recent developments in the matter; and, on 11 May 2007, an order was issued requiring the Prosecution to make further submissions on whether the Chamber should direct the Prosecution to investigate this matter with a view to the preparation and submission of an indictment for contempt pursuant to Rule 77. On 18 May 2007, the Prosecution made further written submissions pursuant to the Order of 11 May 2007, in which it informs the Chamber that Mr. Đorović disputes many of the assertions made by Mr. Ljajić.

4. Rule 77(C)(i) provides that, when a Chamber has reason to believe that a person may be in contempt of the Tribunal, it may direct the Prosecutor to investigate the matter with a view to the preparation and submission of an indictment for contempt.

5. From a review of all the information available to it at this point in time, the Chamber has reason to believe that a person or persons may be in contempt of the Tribunal and therefore finds it appropriate to direct the Prosecution to investigate the matter with a view to the preparation and submission of an indictment for contempt. Moreover, the Chamber notes the fact that the proceedings in which Mr. Đorović testified are still ongoing; the Trial Chamber thus is of the view that it would be appropriate for the matter to be assigned to another Trial Chamber of the Tribunal at the appropriate point in the future.

6. Accordingly, the Trial Chamber, pursuant to Rules 54 and 77 of the Rules of Procedure and Evidence of the Tribunal, hereby DIRECTS the Prosecution to investigate this matter with a view to the preparation and submission of an indictment for contempt.

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



Judge Tsvetana Kamenova

Dated this twenty-third day of May 2007
At The Hague
The Netherlands

[Seal of the Tribunal]