



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: 31 July 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: 31 July 2007

PROSECUTOR

v.

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

PUBLIC

**ORDER FOR SUBMISSIONS ON
JOINT PROSECUTION AND DEFENCE NOTICE REGARDING TRANSLATION OF
EXHIBITS ADMITTED INTO EVIDENCE BY AGREEMENT**

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”) recalls its “Order re Joint Prosecution and Defence Notice Regarding Translation of Exhibits Admitted into Evidence by Agreement”, issued 21 June 2007 (“21 June Order”), and *ex proprio motu* issues this Order in relation thereto.

1. On 9 March 2007, the Prosecution and Defence filed their “Joint Prosecution and Defence Submission of Annex C (Documents Agreed by the Parties)” (“9 March Filing”), pursuant to the Trial Chamber’s “Second Order on Agreed Facts”, issued 15 February 2007. However, a large number of the documents contained in Annex C of the 9 March Filing did not have exhibit numbers. On 19 March 2007, the Prosecution and Defence filed their “Further Submission to Joint Prosecution and Defence Submission of Annex C (Documents Agreed by the Parties), filed 9 March 2007” (“19 March Filing”),¹ by which, at the request of the Chamber, the parties assigned exhibit numbers to the documents listed in Annex C and advised the Chamber that “the parties are now in the process of uploading these documents into the eCourt system”.² On 20 March 2007, the Chamber, by oral ruling, admitted into evidence the documents detailed in Annex C.

2. On 19 June 2007, the Prosecution and Defence filed their “Joint Prosecution and Defence Notice Regarding the Translation of Exhibits Admitted into Evidence by Agreement of the Parties” (“Notice”). In the Notice, the Prosecution and Defence expressly represented to the Chamber that “English translations for the documents listed in Annex A to this Notice have been received from CLSS and uploaded into eCourt”,³ and requested that they be admitted into evidence.⁴ Based upon this representation by the Prosecution and the Defence, the Chamber ordered the admission of the translations listed in Annex A to the Notice into evidence in its 21 June Order.⁵ However, it has come to the Trial Chamber’s attention that English translations of many of the documents listed in Annex A to the Notice are missing substantive text and in some instances bear only the title of the document, for example exhibits 1D233, 1D242, 1D244, 1D257, 1D259, 1D262, and 1D265. In addition, some of the documents listed in Annex C to the 19 March Filing and admitted into evidence on 20 March, appear to be duplicates of one another in the eCourt system, or documents

¹ The Trial Chamber notes that the Prosecution and Defence mistakenly reference the title of the 19 March Filing in the “Joint Prosecution and Defence Notice Regarding the Translation of Exhibits Admitted into Evidence by Agreement of the Parties”, 19 June 2007 (“Notice”). Notice, para. 1, p. 2.

² 19 March Filing, para. 2, p. 2.

³ Notice, para. 3, p. 2.

⁴ Notice, para. 3–4, p. 2.

⁵ 21 June Order, para. 2, p. 2.

that may be different in their original version appear to have duplicate translations into English in eCourt.⁶

3. While in some cases it is an accepted practice to translate only relevant portions of a voluminous document,⁷ the Chamber considers that the instant situation is different: the documents at issue have already been admitted into evidence and thus form part of the official record of the proceedings. Moreover, the parties have represented to the Chamber that the documents were translated, when in fact they were not.

4. The Chamber acknowledges that the parties are essaying not to overburden the Conference and Language Services Section (“CLSS”) with unnecessary translation requests, and the Chamber supports these efforts.⁸ However, in the absence of an express exception, the Chamber will not consider a document that has not been translated into English. It is therefore necessary for the parties to identify the relevant portions of documents admitted into evidence for which English translations have not been tendered, and then confirm to the Chamber that they are submitting these portions to CLSS for translation. This may require the parties to conduct further consultations on the documents that were admitted into evidence via the 20 March 2007 oral ruling of the Chamber, and decide which parts thereof should be submitted for translation. The admission status of the documents admitted on 20 March may then have to be reviewed by the Chamber. The Trial Chamber seeks thus to ensure that the relevant parts of the documents are translated into English and tendered for admission by agreement of the parties.

5. Accordingly, the Trial Chamber, pursuant to Rules 54 and 89 of the Rules of Procedure and Evidence of the Tribunal, hereby ORDERS as follows:

- a. The parties shall conduct further consultations (i) upon which portions of the documents admitted into evidence by the 20 March 2007 oral ruling, but for which

⁶ For example, 1D229 and 1D269 appear to be the same document, as do 1D230 and 1D263. 1D228 and 1D229 appear to be different documents in their original version, but the English translations appear to be the same.

⁷ See Order on Procedure and Evidence, 11 July 2006, paras. 6, 8.

⁸ T. 12840–12841 (22 June 2007)

JUDGE BONOMOY: The final matter to mention at this moment is the question of translations. We’ve greatly appreciated the efforts that have been made to find innovative ways of dealing with the translation problem, and we’re grateful to counsel for that. We are alert to the difficulty and are able to assist where problems can be identified. I think our intervention does assist in expediting the process. We can, I think, help identify where priorities lie in a way that perhaps you can’t yourselves in dealing directly with the translation service. So we urge you to be ever-vigilant on that problem. We do not want the absence of translated material to be a major disruptive factor, and it’s much more important now. The further on you get in a case, the less time you have to resolve translation issues. So they become even more urgent. So please enlist our assistance, as required, to deal with that.

English translations have not been tendered, are relevant to issues in the case, and (ii) to identify any duplicate documents that may have been admitted by the 20 March 2007 oral ruling.

- b. The parties shall report back to the Chamber in a joint, written submission, by no later than 15 August 2007, what action has been taken to have the documents translated into English and when they anticipate tendering the English translations to the Trial Chamber.

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

Judge Iain Bonomy
Presiding

Dated this thirty-first day of July 2007
At The Hague
The Netherlands

[Seal of the Tribunal]