



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: 3 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

Order of: 3 August 2007

PROSECUTOR

v.

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

PUBLIC

ORDER RE DISCLOSURE OF EXPERT REPORTS

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”) issues this order *ex proprio motu* with regard to the “Joint Defence Notice Regarding Expert Report of Professor Branimir Jokić,” filed 30 July 2007, “Sreten Lukić’s Submission of Expert Report Pursuant to Rule 94 *bis*,” filed 30 July 2007, and “General Ojdanić’s 94 *bis* Submission Regarding Military Expert Radovan Radinović,” filed 30 July 2007.

1. On 20 June 2007, the Trial Chamber issued its “Decision on the Defence Motions for Extension of Time to File Reports of Expert Witnesses,” in which it ordered that the five expert reports of Stanković, Prsić, Radinović, Jokić, and Simonović were to be filed no later than 30 July 2007. Although the Milutinović, Ojdanić, and Lukić Defences submitted the expert reports of Radinović, Jokić, Simonović in accordance with this deadline, the Trial Chamber notes that the English translations appear to remain pending. Furthermore, the Defence has failed to make submissions in accordance with the deadline in respect of the expert reports of Stanković and Prsić.

2. The Trial Chamber recalls its “Order on Close of Prosecution Case-in-Chief, Rule 98 *bis* Proceedings, and Defence Rule 65 *ter* Filings,” issued 5 March 2007, in which it ordered as follows at paragraph 8:

- a. Each Accused shall, no later than 15 June 2007,
 - i. file a list of the expert witnesses he intends to call during his Defence case; and
 - ii. serve upon the Prosecution and the Chamber copies of the *curricula vitae* and reports (translated into English, where necessary) of the expert witnesses he intends to call during his Defence case. Such exhibits may be uploaded to the eCourt system.

3. The Trial Chamber also recalls the provisions of Rule 65 *ter* (N), which provides, “Upon a report of the pre-trial Judge, the Trial Chamber shall decide, should the case arise, on sanctions to be imposed on a party which fails to perform its obligations pursuant to the present Rule. Such sanctions may include the exclusion of testimonial or documentary evidence.”¹ The Chamber considers that it would be appropriate, in the present circumstances, to allow the Defence an

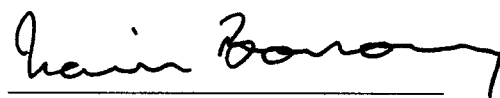
¹ See also Rule 65 *ter* (M) (“The Trial Chamber may *proprio motu* exercise any of the functions of the pre-trial Judge.”).

opportunity to explain their apparent failure to fulfil their disclosure obligations referred to above, prior to deciding upon what sanctions (if any) are appropriate to impose.

4. Accordingly, the Trial Chamber, *ex proprio motu* and pursuant to Rules 54, 65 *ter*, and 94 *bis* of the Rules of Procedure and Evidence of the Tribunal, hereby ORDERS as follows:

- a. The Defence shall file, by 6 August 2007, an explanation as to why the English translations of the expert reports of Radinović, Jokić, and Simonović remain pending, specifically (i) why they were not submitted to CLSS in sufficient time for them to be translated by the extended deadline for their disclosure, (ii) when the translations are expected to be provided, and (iii) whether the Chamber can expect to receive a proper motion for a further extension of the deadline for disclosure.
- b. The Defence shall inform the Prosecution and the Chamber via a written filing, by 6 August 2007, (i) whether they still intend to call expert witnesses Stanković and Prsić, (ii) if so, when these reports (translated into English, where necessary) are expected to be disclosed, and (iii) whether the Chamber can expect to receive a proper motion for a further extension of the deadline for disclosure.

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



Judge Iain Bonomy
Presiding

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

[Seal of the Tribunal]