



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: 11 September 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: 11 September 2007

PROSECUTOR

v.

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

PUBLIC

SECOND ORDER RE DISCLOSURE OF EXPERT REPORTS

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”) issues this order *ex proprio motu* with regard to the “Defence Notification Regarding Expert Report of Professor Branimir Jokić,” filed 4 September 2007 (“Jokić Notification”), and “Defence Notification Regarding Expert Report of Dr. Zoran Stanković,” filed 6 September 2007 (“Stanković Notification”).

1. On 5 March 2007, the Trial Chamber issued its “Order on the Close of the Prosecution Case-in-Chief, Rule 98 *bis* Proceedings, and Defence Rule 65 *ter* Filings,” in which it ordered that each of the Accused shall, no later than 15 June 2007, file a list of expert witnesses and serve upon the Prosecution and the Chamber copies of the reports, translated into English where necessary.¹ The Defence for the Accused Milutinović, Ojdanić, and Lukić all filed motions requesting an extension of the 15 June 2007 deadline in order to secure their expert witnesses’ reports. The Ojdanić Defence filed a motion regarding Zoran Stanković, a forensic historian; Miodrag Prsić, a military historian; and Radovan Radinović, a military expert witness.² The Milutinović Defence filed a motion regarding Branimir Jokić, a cultural heritage expert.³ The Lukić Defence filed a motion regarding an expert on the MUP.⁴ On 20 June 2007, the Chamber granted an extension of the deadline and ordered that the expert reports be filed no later than 30 July 2007.⁵

2. The Chamber notes that, by 30 July 2007, the following submissions had been made, notifying the Prosecution and the Chamber that the expert reports had been uploaded to the eCourt system: (a) “Joint Defence Notice Regarding the Expert Report of Professor Branimir Jokić”; (b) “General Ojdanić’s 94 *bis* Submission Regarding the Military Expert Radovan Radinović”; and (c) “Sreten Lukić’s Submission of Expert Report Pursuant to 94 *bis*” (for Branimir Simonović, Lukić’s expert on the MUP). The Chamber also notes, however, that the translations for each of these reports remained pending, and that the Defence therefore failed to meet the disclosure requirements set forth in the 5 March Order. Furthermore, the Defence failed to make a timely submission regarding the expert reports of Prsić and Stanković.

3. Accordingly, on 3 August 2007, the Trial Chamber issued, *ex proprio motu*, its “Order re Disclosure of Expert Reports”, in which it ordered the Defence to provide an explanation as to why the English translations of the expert reports of Radinović, Jokić, and Simonović remained

¹ Order on the Close of the Prosecution Case-in-Chief, Rule 98 *bis* Proceedings, and Defence Rule 65 *ter* Filings, 5 March 2007, para. 8(e).

² General Ojdanić’s Motion for Extension of Time to File Reports of Expert Witnesses, 13 June 2007

³ Request for Time Extension to File Expert Report on Cultural Heritage, 13 June 2007

⁴ Sreten Lukić’s Motion for Extension of Time to Disclose Report of Expert Witness, 15 June 2007.

⁵ Decision on Defence Motions for Extension of Time to File Reports of Expert Witnesses, 20 June 2007, para. 12.

pending, when the translations were expected to be provided, and when the Chamber could expect to receive a proper motion for a further extension of the deadline for disclosure.⁶ With regard to Stanković and Pršić, the Chamber ordered the Defence to inform the Prosecution and the Chamber whether it still intended to call them as expert witnesses, when these reports (translated into English, where necessary) were expected to be disclosed, and when the Chamber could expect to receive a proper motion for a further extension of the deadline for disclosure.⁷

4. On 6 August 2007, the Ojdanić, Milutinović, and Lukić Defences filed motions (a) requesting that the time for filing the reports of Radinović, Jokić, and Simonović be further extended to allow the Tribunal's Conference Language Services Section ("CLSS") to translate the reports and (b) providing the Chamber with explanations as to why the initial disclosures were not completed on time.⁸ The Ojdanić Defence also informed the Chamber that it no longer intended to call Pršić as a witness.⁹ With regard to Stanković's report, the Lukić Defence informed the Chamber that the final draft had been submitted to the other Defence teams and that it hoped to file a final version within a 48-hour period.¹⁰ On 9 August 2007, the Defence filed Stanković's expert report, requesting a further extension of the deadline for disclosure to permit CLSS to prepare a translation.¹¹

5. In an effort to expedite the translation of these expert reports, the Trial Chamber contacted CLSS, which provided assistance in shortening the timeframe in which the completed translations were to be expected. Accordingly, on 23 August 2007, the Chamber issued its "Decision on Defence Motions for Further Extension of Deadline for Disclosure of Expert Reports," in which it granted a further extension of the deadline for the disclosure of the expert reports in accordance with the CLSS-estimated dates for the completion of the translations of the reports.

6. The Chamber notes that the Jokić Notification and the Stanković Notification state that the translations of the relevant expert reports have been received and uploaded to eCourt. The Chamber awaits notification of the disclosure of the translations of the Simonović and Radinović reports.

⁶ Order re Disclosure of Expert Reports, 3 August 2007, para. 4(a).

⁷ Order re Disclosure of Expert Reports, 3 August 2007, para. 4(b).

⁸ Motion for Further Extension of Deadline for Filing Report of Radovan Radinović, 6 August 2007; Response to Order re Disclosure of Expert Reports in Relation to Professor Branimir Jokić, 6 August 2007; Sreten Lukić's Submission Pursuant to the Trial Chamber's Order of 3 August 2007, 6 August 2007. In its 6 August motion, the Milutinović Defence informed the Chamber of its intent to file a motion requesting the extension of the deadline for the Jokić report. On 7 August 2007, the Defence filed its "Joint Defence Request to Extend the Deadline for Filing the Translation of Professor Branimir Jokić's Expert Report," pursuant to the 3 August Order.

⁹ Motion for Further Extension of Deadline for Filing Report of Radovan Radinović, 6 August 2007, para. 3.

¹⁰ Sreten Lukić's Submission Pursuant to the Trial Chamber's Order of 3 August 2007, 6 August 2007, para. 6.

¹¹ Joint Defence Submission of Expert Report of Dr. Zoran Stanković, Pursuant to Rule 94 *bis*, 9 August 2007, para. 3.

7. Accordingly, the Trial Chamber, *ex proprio motu*, for the avoidance of doubt, and pursuant to Rules 54 and 94 *bis* of the Rules of Procedure and Evidence of the Tribunal, hereby ORDERS that the Prosecution shall file, by 8 October 2007, its response to the expert reports of Jokić and Stanković, specifying whether it (a) accepts the reports, (b) intends to cross-examine the witnesses, and (c) intends to challenge the qualifications of the expert witnesses or the relevance of all or any parts of the reports.

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



Judge Iain Bonomy
Presiding

Dated this eleventh day of September 2007
At The Hague
The Netherlands

[Seal of the Tribunal]