



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: 21 February 2008
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: 21 February 2008

PROSECUTOR

v.

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

PUBLIC

**ORDER ON LUKIĆ NOTICE REGARDING
PURPORTED UNAVAILABILITY OF WITNESSES**

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 “Sreten Lukic’s Notice to the Trial Chamber of Extraordinary Matters Affecting the Defence Case,” filed 20 February 2008 (“Notice”), and hereby renders this order in relation thereto.

1. In the Notice, the Lukić Defence informs the Trial Chamber that recent events in Kosovo and Serbia prevent witnesses on its Rule 65 *ter* list from appearing before the Tribunal to give evidence.¹ Interruptions in the attendance of the witnesses are anticipated, and the Lukić Defence states that it is trying to secure their attendance.² However, these efforts are “hampered by the uncertainty of the situation and the ongoing demands of the Lukic Defence team and staff to keep up with the requirements of trial and the defence case that otherwise exist.” No request for relief is made, but the Lukić Defence asks the Trial Chamber to take notice of and consider the information provided in the Notice and “for such other steps as deemed just and proper”.³

2. The Chamber considers that the Lukić Defence has not identified the specific witnesses who are said to be affected by the recent events in Kosovo and Serbia. Nor has the Lukić Defence described the circumstances of any individual witnesses on its Rule 65 *ter* list, which would prevent their attendance at the trial. None of the claims in the Notice is substantiated by any supporting material.

3. The Chamber takes note of the information set forth in the Notice relating to the current situation in Serbia and Kosovo and is anxious to assist the Lukić Defence in overcoming any problems that may result therefrom, including interceding with the Government of the Republic of Serbia to obtain its cooperation under Article 29 of the Statute of the Tribunal to ensure the attendance of witnesses in a sequence that will cause minimum disruption to their duties and responsibilities to the Republic of Serbia, as well as the trial schedule.

4. The Chamber notes that there is available to the Lukić Defence a variety of procedural mechanisms in order to ensure the attendance of witnesses, such as subpoenas *ad testificandum*, none of which it has requested the Chamber to exercise in order to ensure that its witnesses are available. The Prosecution found it necessary to resort to these mechanisms during its case-in-chief, and they are also available to the Lukić Defence, should they deem them necessary.

¹ Notice, paras. 1–6.

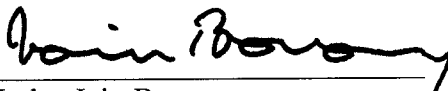
² Notice, paras. 7–16

³ Notice, p. 6.

5. For the foregoing reasons, the Trial Chamber, pursuant to Rule 54 of the Rules of Procedure and Evidence of the Tribunal, hereby ORDERS that the Lukić Defence shall, in a written filing within seven days of the date of this Order,

- a. furnish the names of the witnesses on its Rule 65 *ter* list who it is said are affected by the recent events in Kosovo and Serbia;
- b. furnish the specific circumstances of each of the witnesses described in paragraph (a) above, which prevent their attendance at the trial to give evidence;
- c. inform upon what steps it has taken to secure the attendance of the witnesses described in paragraph (a) above;
- d. **identify the relief or assistance it seeks from the Chamber (if any) to secure the attendance of each witness described in paragraph (a) above; and**
- e. furnish all available documentary and other material supporting their submissions in paragraphs (b) and (c) above.

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



Judge Iain Bonomy
Presiding

Dated this twenty-first day of February 2008
At The Hague
The Netherlands

[Seal of the Tribunal]