



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: 26 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: 26 February 2008

PROSECUTOR

v.

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

PUBLIC

SECOND ORDER ON EXHIBITS P2885, 1D279, 1D671, 4D3, 4D95, 4D106, and 5D272

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, as a follow-up to its “Order on Exhibits P2885, 1D279, 1D671, 4D3, 4D95, 4D106, and 5D272,” issued on 6 February 2008 (“Order of 6 February”), in order to clarify the status of certain documentary evidence that has been tendered in the above-captioned matter.

1. In its Order of 6 February, the Chamber ordered that the Prosecution shall verify whether **P2885** is linked to the correct translation. On 14 February 2008, the Prosecution informed the parties and the Chamber that a corrected translation of exhibit P2885 has been uploaded to eCourt and seeks leave to replace the old version with the new one.¹

2. In its Order of 6 February, the Chamber ordered that the Milutinović Defence shall verify whether **1D279** is linked to the correct translation. On 19 February 2008, the parties jointly informed the Chamber that this exhibit is no longer essential to the proceedings and requests that it be removed from the record of the proceedings.²

3. In its Order of 6 February, the Chamber ordered that the Milutinović Defence shall (a) upload to eCourt a translation of the portion of **1D671** entitled “declaration” on page four and (b) inform the parties and the Chamber of such, after which the translation shall be deemed admitted into evidence. On 19 February 2008, the Milutinović Defence informed the parties and the Chamber that a more legible copy of 1D671 had been uploaded to eCourt, it had been translated, and the translation uploaded to eCourt. The Milutinović Defence requests leave to replace 1D671 in eCourt and requests that the new version and its translation to be admitted into evidence.³

4. In its Order of 6 February, the Chamber ordered that the Pavković Defence shall verify whether **4D3** is linked to the correct translation. On 19 February 2008, the Pavković Defence informed the parties and the Chamber that it would like to withdraw exhibit 4D3.⁴

¹ Prosecution’s Notice Re Exhibit P2885, 14 February 2008.

² Joint Response to Order on Exhibits P2885, 1D279, 1D671, 4D3, 4D95, 4D106 and 5D272, 19 February 2008.

³ Milutinovic Response to Order on Exhibits P2885, 1D279, 1D671, 4D3, 4D95, 4D106 and 5D272, 19 February 2008.

⁴ Pavković Response to the Trial Chamber Order on Exhibits P2885, 1D279, 1D671, 4D3, 4D95, 4D106, 5D272, 19 February 2008.

5. In its Order of 6 February, the Chamber ordered that the Prosecution and Defence shall confer as to the correct translation of **4D95** and inform the Chamber of their agreed conclusions. On 19 February 2008, the Pavković Defence informed the parties and the Chamber that 4D95 is a duplicate of P1421 and requested that 4D95 be admitted into evidence.⁵ On 19 February 2008, the Prosecution informed the parties and the Chamber that it sees no substantive difference in the exhibits and is not opposed to the Pavković request that 4D95 be used as the correct exhibit in place of P1421.⁶ The Chamber notes that 4D95 and its translation are already admitted into evidence, and therefore no action need be taken in relation thereto.

6. In its Order of 6 February, the Chamber ordered that the Prosecution and Defence shall confer as to the correct translation of **4D106** and inform the Chamber of their agreed conclusions. On 19 February 2008, the Pavković Defence informed the parties and the Chamber that 4D106 is a duplicate of **P1574** and requested that 4D106 be admitted into evidence. The Pavković Defence also stated that “the Prosecution informed the Pavkovic team that both original and the translation of 4D106 are the correct versions.”⁷ On 19 February 2008, the Prosecution informed the parties and the Chamber that the difference in translations is due to an inadvertent inclusion of certain material in the Prosecution version of the document and therefore submits that it is appropriate to use the Defence version.⁸ The Chamber has reviewed 4D106 and P1574 and agrees with the parties that the originals of the two exhibits are the same document, albeit with some notes added to 4D106. The Chamber also agrees with the parties that the translation of 4D106 seems to be an accurate translation thereof. However, the Chamber notes that there is a significant amount of material in the translation of P1574 that does not appear in the original, the origin of which is unknown to the Chamber and unexplained by the Prosecution. The Chamber will therefore rely upon 4D106, as requested by the parties, but will also order the Prosecution below to explain the additional material in the translation of P1574, which has been referred to extensively thus far in the record of these proceedings. The Chamber notes that 4D106 and its translation are already admitted into evidence, and therefore no action need be taken in relation thereto.

7. In its Order of 6 February, the Chamber ordered that the Lazarević Defence shall verify that an English translation of **5D272** is available in eCourt and linked to the document. On 12 February

⁵ Pavković Response to the Trial Chamber Order on Exhibits P2885, 1D279, 1D671, 4D3, 4D95, 4D106, 5D272, 19 February 2008.

⁶ Prosecution’s Notice Re 6 February 2008 Order on Exhibits 4D95 and 4D106, 19 February 2008.

⁷ Pavković Response to the Trial Chamber Order on Exhibits P2885, 1D279, 1D671, 4D3, 4D95, 4D106, 5D272, 19 February 2008.

⁸ Prosecution’s Notice Re 6 February 2008 Order on Exhibits 4D95 and 4D106, 19 February 2008.

2008, the Lazarević Defence notified the parties and the Chamber that translation of 5D272 is now uploaded to eCourt and linked to the original exhibit.⁹

8. 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 corrected translation of exhibit **P2885**, which has now been uploaded to eCourt, shall be admitted into evidence.
- (b) Exhibit **1D279** shall be removed from the record of the proceedings.
- (c) Exhibit **1D671** and its translation shall be admitted into evidence, and the previous version of the original shall be removed from the record of the proceedings.
- (d) Exhibit **4D3** shall be removed from the record of the proceedings.
- (e) The Prosecution shall, within seven days of the date of this Order, explain the additional material in the translation **P1574**.
- (f) The translation of exhibit **5D272** shall be admitted into evidence.

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

Judge Iain Bony
Presiding

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

[Seal of the Tribunal]

⁹ Defence Notice Regarding Exhibit 5D272, 12 February 2008.