



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-98-32/1-T

Date: 18 November 2008

Original: English

IN TRIAL CHAMBER III

Before: Judge Patrick Robinson, Presiding
Judge Christine Van den Wyngaert
Judge Pedro David

Registrar: Mr. Hans Holthuis

Order of: 18 November 2008

PROSECUTOR

v.

**MILAN LUKIĆ
SREDOJE LUKIĆ**

PUBLIC

**DECISION ON MILAN LUKIĆ'S MOTION FOR
EXTENSION OF TIME TO PREPARE THE DEFENCE
CASE-IN-CHIEF**

The Office of the Prosecutor

Mr. Dermot Groome
Mr. Frédéric Ossogo
Ms. Laurie Sartorio
Mr. Stevan Cole
Ms. Francesca Mazzocco

Counsel for the Accused

Mr. Jason Alarid and Mr. Dragan Ivetić for Milan Lukić
Mr. Đuro Čepić and Mr. Jens Dieckmann for Sredoje Lukić

TRIAL CHAMBER III (“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”);

BEING SEISED of “Milan Lukić’s Motion for Extension of Time to Prepare the Defence Case-in-chief” filed on 14 November 2008 (“Motion”), in which the Defence for Milan Lukić seeks an extension of time in which to prepare the defence case and an extension of the deadline for submission of defence filings and commencement of the presentation of the defence case-in-chief;

NOTING that the Defence for Milan Lukić is seeking, specifically, a minimum of six uninterrupted weeks to prepare its submissions pursuant to Rule 65 *ter* (G) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), arguing that the Prosecution was allotted such a period of time after the commencement of the trial and asserting that the principle of equality of arms should prevail to grant a similar period of time to the defence;

NOTING the Scheduling Order issued by the Trial Chamber on 6 November 2008 requiring, *inter alia*, both Defence teams to submit their submissions pursuant to Rule 65 *ter* (G) of the Rules no later than Wednesday 19 November 2008 and setting Monday 24 November 2008 for the commencement of the presentation of the defence for Sredoje Lukić;

NOTING that on 15 September 2008 the Trial Chamber granted the request of the Milan Lukić Defence to adopt a four-day per week sitting schedule and, at the same time, indicated that because there was to be a two-week break in the sitting schedule in October, there would be no break between the close of the prosecution case and the presentation of the defence cases;

NOTING that the Defence has on previous occasions, in particular on 22 September and 16 October 2008, made similar applications to the Trial Chamber and that the Chamber varied its schedule of the case accordingly on 9 October 2008 by reconsidering and varying its oral decision of 22 September 2008 by granting a break between the close of the prosecution case and the commencement of the defence cases;¹

NOTING that in its decision of 5 November 2008 the Trial Chamber declined to reconsider or grant certification for appeal of its oral decision of 9 October 2008 on the basis that “the Milan Lukić Defence has not proffered any new substantial arguments in relation to its submission ... and

¹ Oral decision, 9 October 2008, T. 2763-64.

that the Chamber is not persuaded ... that [it]s ruling of 9 October 2008 would occasion an injustice”;²

NOTING FURTHER that, in its Scheduling Order of 6 November 2008, the Trial Chamber granted an additional delay of one week in the commencement of the defence cases;

NOTING that this is a matter for the sole discretion of the Trial Chamber and that therefore it is not necessary to await the submission of any response from the Prosecution;

CONSIDERING that the Defence for Milan Lukić has presented no new substantial arguments in support of its oral and written submissions;

CONSIDERING that on 23 October 2008 the Registrar of the Tribunal assigned Mr. Dragan Ivetić as co-counsel in this matter;

CONSIDERING that the Defence for Milan Lukić also benefited from the adjournment of the trial proceedings in July and August and that, when looked at as a whole, the accused Milan Lukić has had nearly three years in which to prepare his defence, although the Trial Chamber acknowledges that the current defence lead counsel was only assigned as co-counsel in March of this year;

CONSIDERING that the Trial Chamber has already made adjustments to the trial schedule to accommodate various requests of the Defence for Milan Lukić, and that, in its view, the Defence for Milan Lukić has been afforded adequate time to prepare its case such that the further period of six weeks requested is unwarranted;

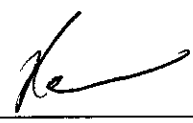
HEREBY GRANTS the Motion in part by allowing an additional week before commencement of the defence cases, otherwise **REJECTS** the Motion and **CONFIRMS AND VARIES** its previous Orders as follows:

- (1) the submissions of the Defence teams pursuant to Rule 65 *ter* (G) are to be filed no later than Wednesday 19 November 2008;
- (2) the Defence for Sredoje Lukić shall present its case commencing Monday 1 December 2008;
- (3) the Defence for Milan Lukić shall be ready to present its case immediately following that of Sredoje Lukić; and

² Decision on Defence motion for reconsideration, or, certification to appeal oral ruling on scheduling Rule 65 *ter* submissions on defence case, 5 November 2008, p. 3.

(4) the current schedule of sitting four days per week shall continue throughout the presentation of the defence cases.

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



Judge Patrick Robinson
Presiding

Dated this eighteenth day of November 2008
At The Hague
The Netherlands

[Seal of the Tribunal]