



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-A
Date: 16 June 2011
Original: English

IN THE APPEALS CHAMBER

Before: Judge Liu Daqun, Pre-Appeal Judge
Registrar: Mr. John Hocking
Order: 16 June 2011

PROSECUTOR

v.

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

PUBLIC

**ORDER REQUIRING SRETEN LUKIĆ TO RE-FILE HIS
SECOND MOTION FOR LEAVE TO VARY HIS NOTICE OF
APPEAL AND APPEAL BRIEF**

The Office of the Prosecutor:

Mr. Peter Kremer QC

Counsel for the Defence:

Mr. Toma Fila and Mr. Vladimir Petrović for Mr. Nikola Šainović
Mr. Tomislav Višnjić and Mr. Peter Robinson 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

I, LIU DAQUN, Judge of the Appeals 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 (“Appeals Chamber” and “Tribunal”, respectively), and Pre-Appeal Judge in this case,¹

NOTING the Judgement rendered in the case *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, by Trial Chamber III on 26 February 2009;

NOTING “Defence Appellant’s Brief Refiled” filed publicly with confidential annexes by Counsel for Sreten Lukić (“Lukić”) on 7 October 2009;

BEING SEISED OF “Sreten Lukic’s [*sic*] Second Motion for Leave to File Variation to Notice of Appeal and Variation to Appeal Arguments” filed by Lukić on 14 June 2011 (“Motion”);

RECALLING that, pursuant to the relevant Practice Direction, motions before the Appeals Chamber should not exceed 3,000 words² and must include a word count before the signature line;³

RECALLING that a party wishing to exceed the word limit must seek authorization in advance from the Appeals Chamber and must provide an explanation of the exceptional circumstances that necessitate the oversized filing;⁴

RECALLING FURTHER that an appendix to a motion should not “contain legal or factual arguments, but rather references, source materials, items from the record, exhibits, and other relevant, non-argumentative material”;⁵

NOTING that the Motion exceeds the word limit and does not contain a word count;

NOTING that Lukić has failed to seek authorisation in advance for exceeding the word limit contained in the Practice Direction;

CONSIDERING that Attachment 3 to the Motion, impermissibly includes legal and factual submissions in support of the Motion;

¹ *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-A, Order Appointing the Pre-Appeal Judge, 19 March 2009.

² Practice Direction on the Length of Briefs and Motions, IT/184 Rev. 2, 16 September 2005 (“Practice Direction”), para. (C)(5). This word limit does not apply to motions filed pursuant to Rule 115 of the Rules of Procedure and Evidence (see Practice Direction, para. (C)(5)).

³ Practice Direction, para. (C)(8).

⁴ Practice Direction, para. (C)(7). See also Decision on Sreten Lukić’s Motion to Reconsider Decision on Defence Motions for Extension of Word Limit, 14 September 2009, p. 2.

⁵ Practice Direction, para. (C)(6).

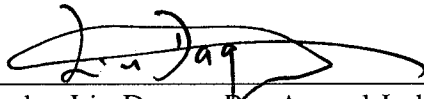
FINDING, therefore, that Lukić has failed to comply with the requirements contained in the Practice Direction and, as a result, the Motion is not validly filed;

HEREBY ORDER Lukić to re-file the Motion in compliance with the Practice Direction no later than 23 June 2011, together with a proposed amended Notice of Appeal as an annex to the Motion; and

ORDER that the deadline for the Prosecution to file its response, if any, to the Motion shall commence from the date of the re-filing of the Motion.

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

Dated this 16th day of June 2011,
At The Hague,
The Netherlands.



Judge Liu Daqun, Pre-Appeal Judge

[Seal of the Tribunal]