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International
Criminal Tribunal
for the Former
Yugoslavia

Court
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Section

Tribunal Pénal
International pour
l'ex-Yougoslavie

Section des
Services
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D5704

CASE/AFFAIRE NO. IT-05-87-PT DATE 01 June 2006

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<input checked="" type="checkbox"/> Senior Legal Officer/Juriste hors-classe MR. G. BOAS / MS. L. DAVIDSON	<input type="checkbox"/> UNDU Commanding Officer/Commandant du QPNU
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IT-05-87-PT p.5703 AP
D5703-D5678
filed on: 01/06/06

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

CASE No. IT-05-87-PT

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Krister Thelin
Judge Frank Hopfel

Registrar: Mr. Hans Holthuis

Date Filed: 1 June 2006

THE PROSECUTOR

v.

MILAN MILUTINOVIC
NIKOLA SAINOVIC
DRAGOLJUB OJDANIC
NEBOJSA PAVKOVIC
VLADIMIR LAZAREVIC
VLASTIMIR DJORDEVIC
SRETEN LUKIC

GENERAL OJDANIC'S MOTION
FOR STAY OF PROCEEDINGS

The Office of the Prosecutor:

Mr. Thomas Hannis
Mr. Chester Stamp
Ms. Christina Moeller

Counsel for General Ojdanic:

Mr. Tomislav Visnjic
Mr. Norman Sepenuk

Mr. Eugene O'Sullivan and Mr. Slobodan Zecevic for Milan Milutinovic
Mr. Toma Fila and Mr. Vladimir Petrovic for Nikola Sainovic
Mr. John Ackerman and Mr. Aleksander Aleksic for Nebojsa Pavkovic
Mr. Mihaljo Bakrac for Vladimir Lazarevic
Mr. Branko Lukic for Mr. Sreten Lukic

01 June 2006

Case No. IT-05-87-PT

“General Ojdanic’s Motion for Stay of Proceedings”

1. General Dragoljub Ojdanic respectfully moves for a stay of proceedings on the grounds that he cannot presently receive a fair trial as guaranteed in Article 20 of the Tribunal’s Statute. Specifically, he contends that the attack on his defence team in Kosovo on 25 May 2006 demonstrates that his defence cannot adequately prepare for trial by visiting the crime scenes and interviewing witnesses in Kosovo, depriving him of effective assistance of counsel and equality of arms with the prosecution, which investigates freely in Kosovo.

Statement of Facts

2. General Ojdanic is charged in an indictment with being responsible for crimes committed in 13 separate municipalities in Kosovo in 1999.

3. Since 2004, General Ojdanic’s defence team has been requesting authorization to travel to Kosovo, view the places where the crimes are alleged to have occurred, and interview witnesses.¹

4. The defence team was referred by the Registry to the United Nations Mission in Kosovo (UNMIK), which was to undertake security for the work in Kosovo.²

5. On 10 March 2005, General Ojdanic’s defence team requested UNMIK to arrange for the mission to take place in April 2005.³

6. On 8 April 2005, UNMIK advised the Registrar that due to the dangerous security situation in Kosovo, our visit could not be accommodated at that time.⁴

7. On 19 April 2005, General Ojdanic’s defence team requested that UNMIK notify it when it was safe to travel in Kosovo.⁵

8. When the Trial Chamber set a trial date for 10 July 2006 in this case, General Ojdanic’s defence team re-contacted UNMIK and requested that a visit be arranged. UNMIK agreed and lead counsel Tomislav Visnjic and an investigator traveled to Kosovo in May 2006.

9. On the second day of their visit, their convoy was ambushed by a large crowd of Kosovar Albanians in the village of Mala Krusa on 25 May 2006. Three UNMIK

¹ See letter to Sebastian Van Vliet of 6 December 2004 attached as Annex “A”

² See letter of Registrar attached as Annex “B”

³ See letter dated 10 March 2005, attached as Annex “C”

⁴ See letter of UNMIK dated 8 April 2005, attached as Annex “D”

⁵ See letter dated 19 April 2005 attached as Annex “E”

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policemen and more than 30 citizens were injured in the attack.⁶ Thanks to armed vehicle and proper and fast reaction to the closeprotection unit, General Ojdanic’s defence team narrowly escaped injury, although rocks were thrown at the windows of their vehicle.

10. As a result of the attack, General Ojdanic’s defence team was evacuated from Kosovo and was unable to continue its mission. It had completed less than one-third of its planned work.

11. On 31 May 2006, General Ojdanic’s defence team was advised by UNMIK that the visit could not be resumed and that “political clearance for the resumption of the visit had been withdrawn.”⁷

Argument

12. Article 20 (1) of the Tribunal’s Statute provides that:

“The Trial Chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence, with full respect for the rights of the accused and due regard for the protection of victims and witnesses.”

13. This right to a fair trial is also enshrined in Article 21(2) which provides that:

“In the determination of charges against him, the accused shall be entitled to a fair and public hearing, subject to article 22 of the Statute.”

14. Article 21 also provides for a number of specific rights embodied within the concept of a fair trial, such as:

- (1) All persons shall be equal before the International Tribunal
- (4) “In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality:
 - (b) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - (d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be

⁶ See UNMIK Press Release, attached as Annex “F”

⁷ See UNMIK letter of 30 May 2006, attached as Annex “G”

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informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.”

15. The present situation in which General Ojdanic’s defence is prevented from investigating his case in Kosovo violates his right to a fair trial, his right to equality of arms with the prosecution, his right to adequate facilities for the preparation of his defence, and his right to effective assistance of counsel.

Equality of Arms

16. The Appeals Chamber has held that the principle of equality of arms between the accused and the prosecution is a component of the right to a fair trial. This obligates a judicial body to ensure that neither party is put at a disadvantage when presenting its case.⁸

17. In assessing an equality of arms challenge by an accused, a judicial body must ask two basic questions: (1) was the Defence put at a disadvantage *vis-à-vis* the Prosecution, taking into account the “principle of basic proportionality” and (2) was the accused permitted a fair opportunity to present his case.⁹

18. In the present case, the defence is clearly disadvantaged *vis-à-vis* the prosecution. The prosecution has been to all of the crime scenes, interviewed hundreds of witnesses in Kosovo, and been unhindered in its opportunity to investigate the crimes there. On the other hand, General Ojdanic’s defence team has been attacked when it tried to conduct the most basic of trial preparation—to view the scenes of the crimes.

19. As a result, General Ojdanic does not have the opportunity to fairly present his case—the second inquiry of the “equality of arms” analysis.

20. In the *Oric* case, the Appeals Chamber held that the principle of equality of arms was violated by restrictions imposed by the Trial Chamber on the number of witnesses and time allowed to the defence.¹⁰ The violation of equality of arms is more

⁸ *Prosecutor v Kordic & Cerkez*, No. IT-65-14/2-A, *Judgement* (17 December 2004) at paras 175-76; *Prosecutor v Milutinovic et al*, No. IT-99-37-AR73.2, *Decision on Interlocutory Appeal on Motion for Additional Funds* (13 November 2003) at para. 23

⁹ *Prosecutor v Stakic*, No. IT-97-24-A, *Judgement* (22 March 2006) at para. 149

¹⁰ *Prosecutor v Oric*, No. IT-03-68-AR73.2, *Interlocutory Decision on Length of Defence Case* (20 July 2005) at para. 9

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serious in this case, where General Ojdanic is prevented from identifying and locating witnesses to the crimes in the first place. He will not even be in a position to call such witnesses, let alone in proportion to the number of witnesses called by the prosecution.

21. The issue of the scope of the doctrine of equality of arms was addressed by the Appeals Chamber in the *Tadic* case. There, the accused claimed that his right to a fair trial was abridged by the failure of the government of Republika Srpska to cooperate with the defence.¹¹

22. The Appeals Chamber acknowledged that it “can conceive of situations where a fair trial is not possible because witnesses central to the defence case do not appear due to the obstructionist efforts of a State. In such circumstances, the defence, after exhausting all the other measures mentioned above, has the option of submitting a motion for a stay of proceedings.” It ruled that the failure of the defence to request this remedy precluded relief on appeal.¹²

23. The Appeals Chamber also considered the fact that the Tribunal had limited authority to compel a State to cooperate with it, and that the principle of equality of arms did not extend to “an external, independent entity” not subject to the control of the court.¹³

24. At the ICTR, the Appeals Chamber likewise held in the *Kayishema & Ruzindana* case that the failure of the government of Rwanda to cooperate with the defence was not sufficient to establish inequality of arms.¹⁴

25. However, these cases are distinguishable from the situation here because, unlike Republika Srpska and Rwanda, the territory of Kosovo is administered by the United Nations, the same body which administers this Tribunal. Here, the same United Nations which proposes to put General Ojdanic on trial is responsible for security in the areas to which his defence team needs access. Under the circumstances, the Trial Chamber cannot shift the responsibility for a fair trial away from its own institution--the United Nations. Instead it must find a way to provide General Ojdanic’s defence team

¹¹ *Prosecutor v Tadic*, No. IT-94-1-A, *Judgement* (10 July 1999) at paras. 29-36

¹² *Prosecutor v Tadic*, No. IT-94-1-A, *Judgement* (10 July 1999) at para. 55

¹³ *Prosecutor v Tadic*, No. IT-94-1-A, *Judgement* (10 July 1999) at paras. 49-50

¹⁴ *Prosecutor v Kayishema & Ruzindana*, No. ICTR-95-1-A, *Judgement* (1 June 2001) at paras. 72-73

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with access to areas under United Nations control under circumstances in which it can do its work, or stay the trial until the conditions for a fair trial are in place.

26. Therefore, General Ojdanic has demonstrated that his inability to investigate in Kosovo comes within the scope of a cognizable violation his right to equality of arms.

27. The Appeals Chamber has held that the accused not only has a right to counsel, but a right to competent counsel.¹⁵ Under the circumstances, General Ojdanic’s counsel cannot render effective assistance to him at trial because they cannot observe the scene of the crimes and access witnesses to the events which are the subject of the indictment.

28. Such a handicap will prevent counsel from effectively cross examining prosecution witnesses, who will testify to having observed events from various positions at or near the scene. Not only will counsel be unable to adequately know the physical layout of the crime scene, but will not have had accesses to witnesses who can contradict the accounts given by prosecution witnesses. Therefore, they lack the basic tools to conduct a competent cross examination.

29. In addition, by lack of access to the crime scenes and witnesses, defence counsel will be unable to bring witnesses during the defence case which could contradict the witnesses of the prosecution.

30. To conduct a trial under these circumstances, where the accused cannot be adequately defended, would be an abuse of process. The Appeals Chamber has held that the Tribunal has an inherent power to stay proceedings which are an abuse of process.¹⁶

31. The Appeals Chamber has further held that a Trial Chamber should use its discretion under the circumstances of a case to decline to exercise jurisdiction “where to exercise that jurisdiction in light of serious and egregious violations of the accused’s rights would prove detrimental to the court’s integrity.”¹⁷ Such is the case here.

Conclusion

¹⁵ *Prosecutor v Akayesu*, No. ICTR-96-4-A, *Judgement* (1 June 2001) at para. 76; *Prosecutor v Muvunyi*, No. ICTR-2000-55^a-T, *Decision on Muvunyi’s Additional Objections to the Deposition Testimony of Witness QX* (31 May 2006) at para. 10

¹⁶ *Prosecutor v Bobetko*, No. IT-02-62-AR54 bis, *Decision on Challenge by Croatia to Decision and Orders of Confirming Judge* (29 November 2002) at para. 15

¹⁷ *Kajelijeli v Prosecutor*, No. ICTR-98-44A-A, *Judgement* (23 May 2005) at para. 207

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32. The trial of this case is scheduled for 10 July 2006. Despite its best efforts, including being subjected to a life-threatening physical attack in the course of its duties, the defence team of General Ojdanic is presently unable to provide him with effective assistance at his trial. The Trial Chamber is presently unable to provide General Ojdanic with adequate security facilities needed for his defence. The situation results in a gross violation of the principle of equality of arms, rendering any trial that might be commenced at this time fundamentally unfair.

33. General Ojdanic respectfully requests under these circumstances the Trial Chamber order a Stay of Proceedings.

Respectfully submitted,


TOMISLAV VISNJIC

NORMAN SEPENUK

Counsel for General Ojdanic

01 June 2006

Case No. IT-05-87-PT

“General Ojdanic’s Motion for Stay of Proceedings”

ANNEX A

01 June 2006

Case No. IT-05-87-PT

"General Ojdanic's Motion for Stay of Proceedings"

General Dragoljub Ojdanic Defence Team

Tomislav Višnjić Zarka Zrenjanina 31a 11000 Belgrade, Yugoslavia tel/fax: (381) 11 244 21 73; 244 05 65; 245 12 62 e-mail: ljoma-law@net.yu	Peter Robinson P.O. Box 1844 Santa Rosa, CA 95402, U.S.A tel: (1) 707-575-0540 fax (1) 208-694-6161 e-mail: peter@peterrobinson.com	Vojislav Seležan Svetuzara Markovica 9 11000 Belgrade, Yugoslavia tel/fax: (381) 11 323 51 17 e-mail: vojeadv@E1.net.yu
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6 December 2004

4 papers 3.12.2004
Adrijan 4.12.2004
 Mr. Sebastian van Vliet
 Chief, Office of Legal Aid and Detention
 International Criminal Tribunal for
 the former Yugoslavia
 Churchillplein 1
 2517 JW The Hague
 Netherlands

Re: *Prosecutor v Ojdanic*
 No. IT-99-37-PT

Dear Bas,

We are in need of your assistance to approve and arrange for security for a trip to Kosovo by Lead Counsel Tomislav Visnjic and Co-Counsel Peter Robinson during the period 11-20 April 2005.

We plan to travel to all of the 13 killing sites listed in the Third Amended Indictment. We want to view the scene of the crimes and speak with villagers and townfolk about what happened there in 1999. This is essential for us to be able to cross-examine witnesses about the events that are the subject of the trial, which we expect will begin later in 2005.

We are requesting that your office arrange for us to be escorted by armed United Nations personnel during our visit so that we are not in danger as a result of our representation of General Ojdanic. The United Nations provides this service to defence counsel at the ICTR who visit Rwanda and we are requesting similar protection for our visit to Kosovo.

We have attached our proposed itinerary, which we would be prepared to modify in consultation with security personnel. We would appreciate it if you could authorize the travel from California for co-counsel Peter Robinson and from Belgrade for Lead Counsel Tomislav Visnjic, as well as arrange for the necessary security arrangements to be put in place.

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“General Ojdanic’s Motion for Stay of Proceedings”

Mr. Sebastian van Vliet

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Thank you very much for your consideration of this request.

Yours truly,



TOMISLAV VISNJIC

PETER ROBINSON
Counsel for General Ojdanic

01 June 2006

Case No. IT-05-87-PT

"General Ojdanic's Motion for Stay of Proceedings"

Itinerary

1. day Beograd – Pristina – Strpce
2. day Beograd – Štrpci – Prizren – Suva Reka, – Prizren – Mala Kruša – Velika Kruša – Nogavac – Velika Kruša – B. Crkva – Zrze – Djakovica – Strpce total 195km
3. day Štrpce – Prizren – Djakovica – Meja – Strpce (152km) –
4. day Strpce – Pec – Dubrava prison – Pec (320 km)
5. Strpce – Djakovica – Klina – Turićevac – Izbica (61km) – Padalište (8km) – Turićevac – Tušilje (29km) – Čirez (25km) – Štrpce total 330km
6. day Štrpce – Kačanik – Kotlina (52km) – Kačanik – Stagovo (18km) – Kačanik – Dubrava (17km) – Kačanik – Uroševac – Štimlje (50km) – Štrpce total 220km
7. day Štrpce – Priština – Vučitrn – G. Sudimlje (120km) – Strpce (240 km)
8. day Strpce – Pristina – Beograd

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“General Ojdanic’s Motion for Stay of Proceedings”

ANNEX B

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"General Ojdanic's Motion for Stay of Proceedings"

United Nations
Nations UniesInternational
Criminal Tribunal
for the former
Yugoslavia

Registry

Tribunal Pénal
International pour
l'ex-Yougoslavie

Greffes

04 March 2005

Dear Mr. Višnjić,

I refer to your letter of 3 December 2004, in which you request the approval of a mission trip to Kosovo for you and Mr. Peter Robinson from 11 to 20 April 2005. You further request the Tribunal's assistance in providing security during the mission.

Regarding the approval of the mission, it is the Registry's practice to authorize a mission trip per defence team on a one-time basis when reasonable. Since you have never visited the area where the crimes of the indictment against your client were allegedly committed, the Registry will grant travel and 7 days of DSA (in accordance with the itinerary plan presented to my office) for you and Mr. Robinson, upon the submission of a reasoned travel request.

Regarding the provision of security during your trip, and after consultation with the relevant units of the Tribunal, I regret to inform you that the Tribunal does not have the capacity in the field office to provide this type of services. Thus, I suggest that you coordinate directly with the United Nations Mission in Kosovo (UNMIK), in particular with the Police Commissioner or the Justice Department. Should they request a supporting letter from the Tribunal, I will make the necessary arrangements to assist your team in this sense.

Should you need further assistance on this matter, please do not hesitate to contact my office.

Yours sincerely,

Sebastian van de Vliet
Head of OLADTO: Mr. Tomislav Višnjić
Attorney at Law*Per facsimile*CC: Mr. Christian Rohde
Senior Legal Officer,
Registrar Advisory SectionChurchillplein 1, 2517 JW The Hague, P.O. Box 13888, 2501 EW The Hague, Netherlands
Churchillplein 1, 2517 JW La Haye, B.P. 13888, 2501 La Haye, Pays-Bas
Tel.: 0031 70 512 5906 Fax: 0031 70 512 8637

01 June 2006

Case No. IT-05-87-PT

“General Ojdanic’s Motion for Stay of Proceedings”

ANNEX C

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01 June 2006

Case No. IT-05-87-PT

"General Ojdanic's Motion for Stay of Proceedings"

General Dragoljub Ojdanic Defence Team

<p>Tomislav Višnjić Zarka Zrenjanina 31a 11000 Belgrade, Yugoslavia tel/fax: (381) 11 244 21 73; 244 05 65; 245 12 62 e-mail: toma-luw@net.yu</p>	<p>Peter Robinson P.O. Box 1844 Santa Rosa, CA 95402, U.S.A tel: (1) 707-575-0540 fax (1) 208-694-6161 e-mail: peter@peterrobinson.com</p>	<p>Vojislav Seležan Svetozara Markovica 9 11000 Belgrade, Yugoslavia tel/fax: (381) 11 323 51 17 e-mail: vojislav@net.yu</p>
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10 March 2005

The Honorable Soren Jessen-Petersen
Special Representative of the Secretary General
UNMIK
Pristina, Kosovo

BY FAX: 1 212 963 8603

Dear Mr. Petersen,

We are the lawyers assigned by the International Criminal Tribunal for the former Yugoslavia (ICTY) to defend General Dragoljub Ojdanic, the former Chief of Staff of the Yugoslavian Army. General Ojdanic is charged with crimes committed in Kosovo in 1999.

As part of our duties, we need to travel to Kosovo to visit the crime scenes in our indictment, which are in thirteen separate municipalities throughout Kosovo, and to speak with witnesses to the events that happened there.

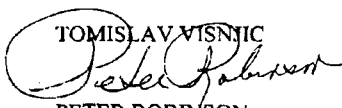
We are requesting that UNMIK assist us by providing appropriate security for our mission, which we would like to undertake from 16-24 April 2005. We are willing to work with your staff to construct an itinerary that will meet the needs of UNMIK and allow us to accomplish our mission within the designated time.

The persons who will be undertaking the mission are Tomislav Visnjic and Ilija Isak of Belgrade and Peter Robinson of USA. We will also require the services of an Albanian translator and would be grateful if UNMIK might suggest a suitable person to assist us in this capacity.

We are enclosing a letter from the ICTY in which it was suggested that we contact you. We would appreciate it if you could respond to Tomislav Visnjic in Belgrade at the address listed above.

Thank you very much for your consideration of this request.

Yours truly,

TOMISLAV VISNJIC

PETER ROBINSON
Counsel for General Ojdanic

01 June 2006

Case No. IT-05-87-PT

“General Ojdanic’s Motion for Stay of Proceedings”

ANNEX D

01 June 2006

Case No. IT-05-87-PT

“General Ojdanic’s Motion for Stay of Proceedings”

11/04 '06 MON 11:11 FAX 1595428

COS

001

UNITED NATIONS
United Nations Interim
Administration Mission
in Kosovo



NATIONS UNIES
Mission d'Administration
Interimra des Nations Unies
au Kosovo

-DH
-DP
-Bas/mati
Lanka
Pse/...
.../...
.../...

8 April 2005

Dear Mr. Holthuis:

I refer to the request dated 10 March 2005 of Messrs. Tomislav Višnjić and Peter Robinson, defence counsel assigned by the International Criminal Tribunal for the Former Yugoslavia (ICTY) to represent General Dragoljub Ojdanic. General Ojdanic has been indicted by the ICTY for crimes committed in Kosovo in 1999.

Defence counsel have requested that UNMIK assist them in visiting crime scenes located in Kosovo related to the indictment against General Ojdanic and with interviewing witnesses resident in Kosovo. Specifically, it has been requested that security arrangements and assistance in arranging language services be provided for their visit, provisionally scheduled for 16 to 24 April 2005.

In principle, UNMIK would be willing to provide the requested assistance, but recent events in Kosovo have made the security situation rather fragile and making arrangements for a visit of this nature at this time would be problematic. For this reason the visit cannot be accommodated as scheduled.

Prior to providing the requested assistance at the appropriate time UNMIK would need to be given additional information and clarification. In this context, we would require a complete list of locations to be visited in Kosovo. In relation to the witnesses, we would require information as to their personal data and place of residence in order to make the necessary security arrangements, including for their transportation and police escort. We would expect the defence team to make all arrangements for contacting witnesses directly. Security considerations would require that the interviews take place in one single secure location. At such time as is deemed appropriate, UNMIK will make the necessary arrangements to identify a secure location for this purpose.

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01 June 2006

Case No. IT-05-87-PT

"General Ojdanic's Motion for Stay of Proceedings"

MON 11:12 FAX 1538428

COS

2002

With regard to interpretation and other language services, we would be glad to provide the defence team with a list of professional interpreters who could be contacted directly and engaged for the interviews.

It would be appreciated if you could convey the foregoing information to Messrs. Višnjić and Robinson.

Yours sincerely,



Søren Jessen-Petersen
Special Representative of the Secretary General

Mr. Hans Holthuis
Registrar
International Criminal Tribunal for the Former Yugoslavia
Churchillplein 1
2517JW The Hague
Netherlands

01 June 2006

Case No. IT-05-87-PT

“General Ojdanic’s Motion for Stay of Proceedings”

ANNEX E

01 June 2006

Case No. IT-05-87-PT

"General Ojdanic's Motion for Stay of Proceedings"

General Dragoljub Ojdanic Defence Team

Tomislav Višnjić Zarka Zrenjanina 31a 11000 Belgrade, Yugoslavia tel/fax: (381) 11 244 21 73; 244 05 65. 245 12 62 e-mail: tomlaw@jcti.yu	Peter Robinson P.O. Box 1844 Santa Rosa, CA 95402, U.S.A tel: (1) 707-575-0540 fax (1) 208-694-6161 e-mail: peter@peterrobinson.com	Vojislav Seležan Svetozara Markovica 9 11000 Belgrade, Yugoslavia tel/fax: (381) 11 323 51 17 e-mail: vojicadv@EUnet.yu
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19 April 2005

The Honorable Soren Jessen-Petersen
 Special Representative of the Secretary General
 UNMIK
 Pristina, Kosovo

BY FAX: 1 212 963 8603

Dear Mr. Petersen,

We have received your letter of 8 April to Hans Holthuis, Registrar of the ICTY, concerning our visit to Kosovo in connection with the defence of General Ojdanic.

While we regret that our visit could not be accommodated at this time by UNMIK for security reasons, we are grateful for your willingness to provide security for our mission when the situation allows. We would appreciate it if you could notify us when you believe it is safe for us to work in Kosovo.

We also wish to provide you with the information that you requested in your letter. The places we wish to visit are the locations listed in paragraphs 63a-m and 66a-l in the Third Amended Indictment against General Ojdanic. We can provide you a copy of that indictment if you do not already have it, or you can access it through the ICTY website, www.un.org/icty. (Case No. IT-99-37)

We are flexible as to the order in which we visit these locations and would be happy to accommodate any logistical suggestions UNMIK might have in that regard. We also appreciate your offer to provide us with a list of qualified interpreters and would like to receive that list from you in advance of the scheduled visit.

Finally, with respect to witnesses, we will not interview particular defence witnesses during this trip, but will need to speak to people in the various locales when we arrive in order to precisely identify the locations involved and understand what happened there.

01 June 2006

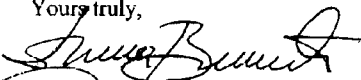
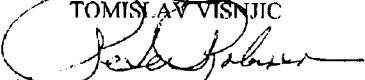
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The Honorable Soren Jessen-Petersen
—page two—

Please do not hesitate to contact us if you have any questions or require further clarification.

Yours truly,


TOMISLAV VISNJIC

PETER ROBINSON
Counsel for General Ojdanic

cc: The Honorable Hans Holthuis

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ANNEX F

01 June 2006

Case No. IT-05-87-PT

"General Ojdanic's Motion for Stay of Proceedings"



UNMIK/PR/1554
Wednesday, 24 May 2006

Ethnically motivated crimes on the decline in Kosovo

PRISTINA – Special Representative of the UN Secretary-General in Kosovo (SRSG) Søren Jessen-Petersen today called on all concerned to refrain from propagating misinformation on the security situation in Kosovo particularly with respect to the Kosovo Serb community.

"I have noted with concern periodic statements from certain quarters that risk creating a climate of fear and insecurity among the Kosovo Serbs," the SRSG said. "All too often ethnic motive is alleged for crimes merely because the victims happen to be from the Kosovo Serb community. Whereas we always deplore any attack on any citizen, statements of misleading nature are not helpful and are in fact contrary to the interests of the Kosovo Serbs. This kind of misinformation not only erodes their confidence level, but has a cascading negative impact on inter-ethnic relations."

Crime statistics for the first quarter of this year (January – March 2006) reveal a marked decline in potentially ethnically motivated crimes, that is, cases where the possibility of an ethnic motive has not yet been ruled out. As compared to 72 incidents recorded during January to March 2005, there were only 19 such incidents during the same period this year. Of these incidents, 12 involved Kosovo Serb, six Kosovo Albanian and one Kosovo Croatian victims. Among Kosovo Serb victims, one was a case of attempted murder, two assaults, three intimidations and six cases of criminal damage.

UNMIK Police recently analysed 1,408 Kosovo Serb convoys that were escorted by the Kosovo Police Service (KPS) during January to early May this year. It was found that there had been six incidents of stone throwing at these convoys and police had made five arrests in those cases.

In December 2005, on the directions of the SRSG, the Police launched 'Operation Stringent Security' focusing on vulnerable communities and localities. This operation has since involved 85,502 vehicle check points, 94,315 foot/vehicle patrols and 18,758 police visits to graveyards. 1,269 arrest warrants have been executed, 1,735 persons arrested for various crimes and 476 weapons seized. This high intensity police operation has, among other things, substantially contributed to reducing crime levels particularly with respect to the minority communities.

In view of continuing perception of insecurity among the Kosovo Serbs, the SRSG has asked the Police Commissioner to further enhance international police deployment in minority areas to support the KPS efforts to prevent any incident and to help increase community confidence.

01 June 2006

Case No. IT-05-87-PT

“General Ojdanic’s Motion for Stay of Proceedings”



UNMIK/PR/1555
Thursday, 25 May 2006

SRSG condemns incident in a village of Prizren municipality

PRISTINA – Special Representative of the UN Secretary-General in Kosovo (SRSG) Søren Jessen-Petersen has strongly condemned the incident in the village of Krushe e Vogel/Mala Krusa in Prizren Municipality today, where two Serbian members of a defence team accredited to the ICTY and escorted by Police, were attacked by villagers.

“I am outraged and disappointed at this incident. It is important for the people of Kosovo to understand that their quest for justice can only be achieved through the course of justice, not by extra-judicial means. This requires, first and foremost, that there should be respect for the rule of law,” the SRSG said.

“I understand that there will always be emotions involved in such situations. However, actions like this work against the future that we all want for Kosovo. As Kosovo goes through the status process, this is the time when all its people have to define the parameters for a democratic, multi-ethnic and rule of law based society. At this crucial time, their every action has a bearing on the future of Kosovo,” he added.

According to an UNMIK Police report, at approximately 10:00 hours today in the village of Krushe e Vogel/Mala Krusa, a group of villagers blocked the road in front of a convoy of UNMIK Police officers supported by one KPS Regional Operations Support Unit (ROSU) that was escorting the two members of the defence team.

Police officers attempted to clear the road peacefully, but the citizens responded by throwing rocks at the Police and the convoy. Three Police officers and one language assistant were injured in the attack. Police then had to clear the crowd, unfortunately resulting in injuries to a number of citizens who received medical treatment from an ambulance at the scene.

UNMIK Police Commissioner Kai Vittrup has initiated an investigation of the incident and action taken by the Police. In this connection, the Police Commissioner will also meet with villagers following their request.

01 June 2006

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ANNEX G

01 June 2006

Case No. IT-05-87-PT

"General Ojdanic's Motion for Stay of Proceedings"

UNITED NATIONS
United Nations Interim
Administration Mission
in Kosovo



NATIONS UNIES
Mission d'Administration
Intérimaire des Nations Unies
au Kosovo

30 May 2006

Dear Mr. Visnjic,

This is to inform you that as a consequence of the unfortunate incidents in Krusha e Vogël/Mala Kruša last week, political clearance for the resumption of your visit has been withdrawn. I am certain that you will understand that due to security concerns and the emotional impact of last week events UNMIK will need to be provided with all the necessary information in order to be able to make sound decisions and to ensure the smooth conduct of any similar visits in the future.

Thus, I would ask you to furnish us with the following details:

1. The purpose of the visit;
2. A detailed itinerary for your planned visit;
3. Details of all the delegation members (full names, citizenship, passport numbers);
4. Exact time and location of your entry into and exit out of Kosovo.

Please note that in order to safeguard proper planning and preparation of future visits, the request for political clearance must be received no later than three full working days before the scheduled entry into Kosovo. Saturdays, Sundays and official UN holidays will not count as working days. The request for political clearance should include the provision of all information listed above.

I look forward to your reply.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Schook", written over a horizontal line.

Steven Schook
Principal Deputy Special Representative
of the Secretary-General

Mr. Tomislav Visnjic