

UNITED NATIONS

IT-95-14/1-T
10 MARCH 1999
D4-1/3116bis

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DW



International Tribunal for the Prosecution
of Persons Responsible for Serious
Violations of International Humanitarian
Law Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-95-14/1-T

Date: 5 March 1999

English
Original: French

IN THE TRIAL CHAMBER

Before: Judge Almiro Simões Rodrigues, Presiding
Judge Lal Chand Vohrah
Judge Rafael Nieto Navia

Registrar: Mr. Jean-Jacques Heintz, Deputy Registrar

Order of: 5 March 1999

THE PROSECUTOR

v.

ZLATKO ALEKSOVSKI

**DECISION REGARDING THE ADMISSION OF
CERTAIN DOCUMENTS AS EVIDENCE**

The Office of the Prosecutor:

**Mr. Grant Niemann
Mr. Anura Meddegoda**

Defence Counsel:

**Mr. Goran Mikulić
Mr. Srdan Joka**

TRIAL CHAMBER I (hereinafter “the Trial Chamber”) of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991;

PURSUANT to Rule 54 and Sub-rule 89 (C) of the Rules of Procedure and Evidence (hereinafter “the Rules”),

NOTING the Order issued by the Appeals Chamber on 4 February 1999 “regarding the Prosecution’s Application for leave to appeal filed on 6 November 1998” and the Decision of 16 February 1999 regarding the admissibility of evidence,

NOTING the Order “for the disclosure of evidence” rendered on 19 February 1999 by the Trial Chamber seized of the *Blaškić* case (hereinafter “the *Blaškić* Trial Chamber”),

NOTING the Order “regarding the admissibility of certain documents as evidence” issued by the Trial Chamber on 19 February 1999 (hereinafter “the Order”),

NOTING the written submissions of the Prosecutor and the Defence filed on 2 March 1999 and 5 March 1999 respectively,

CONSIDERING that the Prosecutor submitted a motion on 19 October 1998 requesting leave of the Trial Chamber to admit as evidence in the *Aleksovski* case the testimony given in closed session by a protected witness (hereinafter “the Witness”) in the *Blaškić* case,

CONSIDERING that in an order issued on 4 February 1999, the Appeals Chamber decided to allow the testimony of the witness to be admitted into evidence “to the extent that the Trial Chamber considers that the evidence in rebuttal has probative value under Sub-rule 89(C)” of the Rules and ordered that the matter be remitted to the Trial Chamber “for review with regard to the evidence in rebuttal” so that the “*Aleksovski* Trial Chamber: 1) instruct the Prosecution to seek from [the *Blaškić* Trial Chamber] a waiver or amendment of the protective measures ordered by that Trial Chamber to enable the evidence in rebuttal to be disclosed as necessary in the *Aleksovski* proceedings and 2) order appropriate protective measures for the purposes of its review of the evidence in rebuttal and of the admission, in part or in entirety, of this evidence in the present trial, if the evidence is to be admitted.”

CONSIDERING that, when seized by the Prosecutor, the *Blaškić* Trial Chamber ordered that the protective measures which it granted to the protected witness be transferred *mutatis mutandis*, as necessary, and that a different pseudonym be given to the Witness; that the Trial Chamber was therefore able to disclose the statement of the Witness to the Defence; that the Trial Chamber requested the submissions of the Prosecution and the Defence,

CONSIDERING that the Prosecution submitted that the testimony of the Witness was relevant to the *Aleksovski* case; that Defence responded without making any specific comment in that regard,

CONSIDERING that the testimony of the protected Witness is of interest insofar as it may shed light on the character of the armed conflict for the Trial Chamber,

CONSIDERING that the Trial Chamber therefore deems the testimony of the Witness to have probative value, although that conclusion has no bearing on the weight the Judges will attribute to that evidence when they assess all the evidence tendered during the trial,

CONSIDERING that in view of the protective measures afforded to the Witness by the *Blaškić* Trial Chamber and pursuant to the Order rendered by the *Blaškić* Trial Chamber on 19 February 1999, the Witness should be granted the appropriate protective measures in the *Aleksovski* case,

FOR THE FOREGOING REASONS,

THE TRIAL CHAMBER

ORDERS that, subject to the following, the transcript of the Witness testimony be admitted under seal in the case-file of the *Aleksovski* case as a Prosecution exhibit under the reference which the Registry deems appropriate; that the Registry take all measures to ensure that the Witness in the *Aleksovski* case is identified solely as "Witness X" and, *inter alia*, amend the original transcript or any other materials in the present proceedings as necessary and in the two official languages of the Tribunal,

ORDERS therefore that the Defence return to the Registry the transmitted copy or copies of the transcript as well as any photocopy which might have been made thereof; and that the Registry disclose to Defence counsel an amended version of the transcript using only the reference "Testimony of Witness X",

ORDERS the Prosecution and the Defence not to disclose the identity of the Witness or any other information in the transcript of the testimony under any circumstances.

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

Done this fifth day of March 1999

At The Hague

The Netherlands

(Signed)

Almiro Simões Rodrigues

Presiding Judge Trial Chamber I

(Seal of the Tribunal)