



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-99-36-T  
Date: 25 June 2003  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Carmel Agius, Presiding  
Judge Ivana Janu  
Judge Chikako Taya

**Registrar:** Mr. Hans Holthuis

**Decision of:** 25 June 2003

**PROSECUTOR**

v.

**RADOSLAV BRĐANIN**

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**DECISION ON PROSECUTION'S MOTIONS FOR ADMISSION  
OF STATEMENTS PURSUANT TO RULE 92BIS - BOSANSKA  
KRUPA AND BOSANSKI NOVI**

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**The Office of the Prosecutor:**

Ms. Joanna Korner

**Counsel for the Accused:**

Mr. John Ackerman  
Mr. David Cunningham

**TRIAL CHAMBER II** (“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** the “Prosecution’s Motion for Admission of Statements Pursuant to Rule 92*bis* – Bosanska Krupa Municipality” and “Confidential Annex A” (“Bosanska Krupa Motion”), filed on 8 April 2003, requesting the admission pursuant to Rule 92*bis* of the Rules of Procedure and Evidence (“Rules”) of the written statements and relevant attachments of witnesses 7.63, 7.132 and 7.58;

**REMAINING SEISED OF** the “Prosecution’s Motion for Admission of Statements Pursuant to Rule 92*bis*- Bosanski Novi Municipality”, “Confidential Annex A” and “Confidential Annex B” thereto (“Bosanski Novi Motion”), filed on 28 November 2002, in respect of witness 7.147, regarding whom no decision was taken in the Decision on Prosecution’s Motion for Admission of Statements Pursuant to Rule 92*bis* – Bosanski Novi Municipality (“Bosanski Novi Municipality Decision”) handed down on 17 January 2003, because the Rule 92*bis* material in relation to that witness had not yet been made available to the defence of Radoslav Brđanin (“Defence”);

**NOTING** that on 21 February 2003 the Prosecution disclosed to the Defence the statement of witness 7.147;

**NOTING** the following responses from Defence (collectively referred to as the “Responses”):

- A) “Response to Prosecutor’s Rule 92*bis* Motion – Bosanska Krupa”, filed on 17 June 2003, in which the Defence does not object to Rule 92*bis* treatment of witnesses 7.63, 7.132 and 7.58;
- B) “Response to Prosecutor’s Rule 92*bis* Motion – Bosanski Novi”, filed on 17 June 2003, in which the Defence does not object to Rule 92*bis* treatment of witnesses 7.6, 7.95 and 7.98, but in which the Defence objects to Rule 92*bis* treatment of witness 7.147, alleging that the statement of the latter does not qualify for Rule 92*bis* treatment since it speaks of the acts and the conduct of Radoslav Brđanin (“Accused”);

**NOTING** that by agreeing to Rule 92*bis* treatment of testimonies and statements of witnesses, the Defence does not concede the accuracy of any statements of assertions made by any witness;

**NOTING** that in the Bosanski Novi Municipality Decision, the Trial Chamber already admitted the written statements of witnesses 7.6, 7.95 and 7.98 into evidence under Rule 92*bis* and that all three witnesses have appeared before the Trial Chamber for cross-examination;<sup>1</sup>

**CONSIDERING** that the Trial Chamber has a duty to ensure that the requirements for the admission into evidence of witnesses' statements and relevant attachments pursuant to Rule 92*bis* are met, and that the application of this Rule in the instant case does not prejudice the rights of the accused envisaged in Article 21 of the Statute of the Tribunal ("Statute");

**CONSIDERING** that the Trial Chamber is satisfied that the written statements of witnesses 7.63, 7.132 and 7.58 go to proof of matters other than the acts and conduct of the Accused as charged in the Indictment;

**CONSIDERING** that the statement of witness 7.147 repeatedly refers to the acts and conduct of the Accused as charged in the indictment;

**FINDING** that the fifth paragraph on page two of the statement of witness 7.147, starting with "[t]he meeting took place in the dining room ..." and the sixth paragraph on page two, starting with "[i]n either October or November of 1991 ..." shall be redacted;

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<sup>1</sup> On 6 February 2003 witnesses 7.6, 7.95 and 7.98 appeared for cross-examination.

**FOR THE FOREGOING REASONS****PURSUANT TO** Articles 20 and 21 of the Statute and to Rule 92*bis* of the Rules;**HEREBY DECIDES THAT:**

1. The written statements of witnesses 7.63, 7.132 and 7.58 are admitted into evidence under Rule 92*bis*;
2. the redacted version of the written statement of witness 7.147 is admitted into evidence under Rule92*bis*.

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

Dated this 25<sup>th</sup> day of June 2003.

At The Hague

The Netherlands

**Carmel Agius****Presiding Judge****[Seal of the Tribunal]**