



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-02-54-T
Date: 10 October 2003
Original: English

IN THE TRIAL CHAMBER

Before: Judge Richard May, Presiding
Judge Patrick Robinson
Judge O-Gon Kwon

Registrar: Mr. Hans Holthuis

Order of: 10 October 2003

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**DECISION ON PROSECUTION MOTION FOR THE ADMISSION OF WITNESS
STATEMENTS RELEVANT TO EVENTS IN BRČKO, FOČA, BIJELJINA AND
BOSANSKA KRUPA MUNICIPALITIES IN LIEU OF *VIVA VOCE* TESTIMONY
PURSUANT TO RULES 54, 75 and 92BIS**

The Office of the Prosecutor

Mr. Geoffrey Nice

The Accused

Slobodan Milošević

Amicus Curiae

Mr. Steven Kay
Mr. Branislav Tapušković
Mr. Timothy McCormack

THIS 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 (“the International Tribunal”),

BEING SEISED of a Partially Confidential Prosecution Motion for the Admission of Witness Statements Relevant to Events in Brčko, Foča, Bijeljina and Bosanska Krupa Municipalities in Lieu of *Viva Voce* Testimony Pursuant to Rules 54, 75 and 92bis, filed on 4 September 2003 (“Motion”), by the Office of the Prosecutor (“Prosecution”) seeking, *inter alia*, the admission of the written statements and associated exhibits of witnesses B-1448, B-1011, B1018 and B-1351 without cross-examination, and conceding that the written statements and associated exhibits of witnesses B-1412, B-1453, B-1531 and B-1353 should be admitted with cross-examination,

NOTING the *Amici Curiae* Reply to Partially Confidential Prosecution Motion for the Admission of Witness Statements Relevant to Events in Brčko, Foča, Bijeljina and Bosanska Krupa Municipalities in Lieu of *Viva Voce* Testimony Pursuant to Rules 54, 75 and 92bis, Dated 4 September 2003, filed on 12 September 2003 (“*Amici* Reply”), filed by the *Amici Curiae* (“*Amici*”), submitting, *inter alia*, that witnesses B-1353, B-1011, B-1018 and B-1351 should be heard *viva voce*, and that witness B-1448 should be heard *viva voce* on the provenance and authenticity of the documents referred to the statement,

NOTING that Rule 92bis(A) provides:

A Trial Chamber may admit, in whole or in part, the evidence of a witness in the form of a written statement in lieu of oral testimony which goes to proof of a matter other than the acts and conduct of the accused as charged in the indictment.

NOTING Articles 20 and 21 of the Statute,

CONSIDERING the Accused’s general opposition to the admission of Rule 92bis evidence and assuming the same in regard to the present motions,

CONSIDERING that the evidence presented in the motion does not go to proof of the acts and conduct of the Accused and is chiefly crime base, and is therefore admissible under Rule 92bis,


CONSIDERING that the cumulative nature of the testimony is only one factor in favour of admitting a statement under Rule 92*bis*(A),

PURSUANT TO Rules 54, 75(A) and 92*bis* of the Rules,

HEREBY ORDERS as follows:

- (i) The statements and accompanying exhibits of witnesses B-1011, B-1018, B-1353 and B-1448 shall be admitted, subject to the witnesses being available for cross-examination by the Accused, with the cross-examination of witness B1448 being limited to the evidence concerning the discovery of documents on the body of the dead person,
- (ii) The statements and accompanying exhibits of witnesses B-1412, B-1453 and B-1531 shall be provisionally admitted, pending the fulfilment of the attestation requirements under Rule 92*bis*(B), and subject to the witnesses being available for cross-examination by the Accused,
- (iii) The statement and accompanying exhibits of witness B-1351 shall be admitted without cross-examination, and
- (iv) The parts of the written statement of witness B-1018 which refer to the names of sexual assault victims in Foča shall be redacted.

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



Richard May
Presiding

Dated this tenth day of October 2003
At The Hague
The Netherlands

[Seal of the Tribunal]