



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: 31 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: 31 October 2003

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**DECISION ON PROSECUTION MOTION FOR THE ADMISSION OF WITNESS
STATEMENTS RELEVANT TO EVENTS IN GAČKO, VIŠEGRAD, ZVORNIK AND
SANSKI MOST MUNICIPALITIES IN LIEU OF VIVA VOCE TESTIMONY PURSUANT
TO RULES 54 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 Gačko, Višegrad, Zvornik and Sanski Most Municipalities in Lieu of Viva Voce Testimony Pursuant to Rules 54 and 92*bis*, filed on 19 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-1756 and B-1376 without cross-examination, and conceding that the written statements and associated exhibits of witnesses B-1122 and B-1780 should be admitted with cross-examination,

NOTING that Rule 92*bis*(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 92*bis* 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 92*bis*,


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-1122 and B-1780 shall be provisionally admitted, pending the fulfilment of the attestation requirements under Rule 92bis(B), and subject to the witnesses being available for cross-examination by the Accused,
- (ii) The statement and accompanying exhibits of witness B-1756 shall be admitted without cross-examination, Judge Robinson dissenting to the decision, and
- (iii) The statements and accompanying exhibits of witness B-1356 shall be provisionally admitted without cross-examination, pending the fulfilment of the attestation requirements under Rule 92bis(B),

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


Richard May
Presiding

Dated this thirty-first day of October 2003
At The Hague
The Netherlands

[Seal of the Tribunal]

Judge Robinson appends a dissenting opinion to the present decision.