

UNITED  
NATIONS



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-02-54-T

Date: 04 January 2004

Original: ENGLISH

IT-02-54-T  
D 28737 - D 28735  
04 February 2004

28737  
JK

**IN THE TRIAL CHAMBER**

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

**Registrar:** Mr. Hans Holthuis

**Decision:** 04 January 2004

**PROSECUTOR**

v.

**SLOBODAN MILOŠEVIĆ**

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**SECOND DECISION ON PROSECUTION MOTION FOR ADMISSION OF  
TRANSCRIPT PURSUANT TO RULE 92BIS(D) AND STATEMENT  
PURSUANT TO RULE 89(F) FOR WITNESS B-1804**

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**Office of the Prosecutor:**

Mr. Geoffrey Nice  
Ms. Hildegard Uertz-Retzlaff  
Mr. Dermot Groome

**Amici Curiae:**

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

**The Accused:**

Mr. Slobodan Milošević

**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 (“International Tribunal”),

**BEING SEISED** of a confidential “Prosecution Motion for the Admission of Transcripts Pursuant to Rule 92bis(D) and the Statement of Witness B-1804 Pursuant to Rule 89(F)”, filed by the Office of the Prosecutor (“Prosecution”) on 23 January 2004 (“Motion”), requesting, *inter alia*, that the Trial Chamber, pursuant to Rule 92bis(D) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), admit into evidence the transcript and related exhibits of Witness B-1804 whose testimony relates to events in Eastern Bosnia between 1992 and 1995, specifically events in and around the Municipality of Srebrenica in 1995,

**NOTING** the Trial Chamber’s “Order on Prosecution Motion for the Admission of Transcripts Pursuant to Rule 92bis(D) and the Statement of Witness B-1804 Pursuant to Rule 89(F)”, issued 23 January 2004, granting the Prosecution’s request that the witness’ statement be admitted into evidence under Rule 89(F) of the Rules,

**CONSIDERING** the Prosecution’s argument that the evidence should be admitted because it (1) is primarily crime-base evidence that does not go to the acts and conduct of the Accused and (2) is not so pivotal to the Prosecution case or so proximate to the Accused that the Trial Chamber should exercise its discretion to exclude the transcripts,

**NOTING** that Rule 92bis(D) and (E) of the Rules provides that the Trial Chamber (1) may admit a transcript of evidence given by a witness in proceedings before the International Tribunal that goes to proof of a matter other than the acts and conduct of the Accused and (2) shall decide whether to admit the transcript in whole or in part and whether to require the witness to appear for cross-examination,


**CONSIDERING** that the Trial Chamber is unable to assess the relevance or probity of the supporting material, which the Prosecution seeks as part of the Motion to have admitted into evidence, because (1) exhibits are missing; (2) an exhibit is present in the materials that was not referenced in the Motion; (3) portions of exhibits are illegible; (4) significant portions of exhibits are not translated from B/C/S into English; and (5) exhibits are untranslated in their entirety,

**CONSIDERING** therefore that the Trial Chamber is unable to determine the merit of the Motion,

**PURSUANT** to Rules 54 and 92*bis*(D) and (E) of the Rules,

**HEREBY DENIES** the Motion.

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



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Patrick Robinson  
Judge

Dated this 4th day of January 2004  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**