

**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: 12 January 2004

Original: ENGLISH

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Decision: 12 January 2004

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**DECISION ON PROSECUTION MOTION FOR ADMISSION OF A
SUMMARY OF THE TESTIMONY OF WITNESS B-1489
PURSUANT TO RULE 89(F)**

Office of the Prosecutor:

Mr. Geoffrey Nice
Ms. Hildegaard 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 “Prosecution Application Under Rule 89(F) to Admit the Statements of Witness B-1489 in Evidence”, filed by the Office of the Prosecutor (“Prosecution”) on 12 January 2004 (“Motion”), requesting that the Trial Chamber, pursuant to Rule 89(F) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), admit into evidence a summary of the testimony of Witness B-1489,

NOTING that (1) Rule 89(F) of the Rules provides that a Chamber may receive the evidence of a witness orally or, where the interests of justice allow, in written form and (2) the jurisprudence of the International Tribunal allows for the admission of a written witness statement under Rule 89(F) of the Rules, provided that the witness is present in court, available for cross-examination and any questioning by the judges, and attests that the statement accurately reflects his or her declaration and what he or she would say if examined,¹

CONSIDERING that the determination of the “interests of justice” under Rule 89(F) of the Rules must be made by the Trial Chamber in relation to each individual witness, in light of not only the surrounding circumstances, but also the evidence to be given by the witness,²

CONSIDERING that Witness B-1489 is scheduled to testify tomorrow, 13 January 2004 and the lateness of the Prosecution’s Motion,

CONSIDERING that it is not in the interests of justice to admit the statement under Rule 89(F) of the Rules,

NOTING Articles 20 and 21 of the Statute of the International Tribunal,

CONSIDERING the Accused’s general opposition to the admission of evidence under Rule 89(F) of the Rules,


¹ *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-AR73.4, “Decision on Interlocutory Appeal on the Admissibility of Evidence-in-Chief in the Form of Written Statements”, 30 September 2003, at page 11.

² *Ibid.*, at para. 21.

PURSUANT to Rules 54 and 89(F) of the Rules,

HEREBY DENIES the Motion.

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


Richard May
Presiding

Dated this twelfth day of January 2004
At The Hague
The Netherlands

[Seal of the Tribunal]