



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: 16 January 2004
Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Order of: 16 January 2004

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**ORDER ON PROSECUTION MOTION FOR RECONSIDERATION OF APPLICATION
TO ADD WITNESS C-1249 TO THE WITNESS LIST**

The Office of the Prosecutor

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

Amicus Curiae

Mr. Steven Kay
Mr. Branislav Tapušковиć
Prof. Timothy L. H. 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 confidential and partly *ex parte* “Prosecution Motion for Re-consideration of Application to Add Witness C-1249 to the Witness List”, filed by the Prosecution on 19 December 2003 (“Motion”), requesting that the Trial Chamber reconsider its prior orders refusing the addition of this witness to the Prosecution witness list and suspend consideration of the conditions imposed on the testimony of the witness pending further negotiations between the Prosecutor and the Government referred to in the Motion,

CONSIDERING that the Trial Chamber has refused leave to add this witness to the witness list on two prior occasions:

- (a) On 21 November 2003, on the basis that the application to add the witness was hypothetical and therefore inappropriate;¹ and
- (b) On 17 December 2003, in ruling on a further application, on the basis that the Chamber was not satisfied the Prosecution had shown good cause such that the witness should be added to the witness list, there being insufficient justification for making the application so late in the trial, and because the conditions imposed upon the evidence it is said the witness would give are too restrictive to be permissible,²

NOTING that the Prosecution has re-stated and elaborated on the importance it attaches to the prospective evidence the witness would give and has stated that the Prosecutor is negotiating with the relevant Government to “further define and, if possible, reduce” the conditions it imposes on the evidence of the witness,

CONSIDERING that whilst the Prosecution has addressed the grounds for refusal in the 17 December 2003 Order, nothing in the Motion cures the concerns the Trial Chamber expressed and upon which it determined that the admission of the evidence was inappropriate, and in particular it has given no good reason why this evidence has not been brought forward earlier in the trial,

¹ “Decision on Prosecution’s Fourth Omnibus Motion for Leave to Amend the Witness List and Request for Protective Measures”, 21 November 2003.

² “Decision on Prosecution’s Motion to Add Witness C-1249 to the Witness List and For Trial Related Protective Measures”, 17 December 2003.

CONSIDERING that the application has twice now been fully argued and determined,

PURSUANT TO Rules 89 (D) and 54 of the Rules of Procedure and Evidence of the International Tribunal,

HEREBY DENIES THE MOTION

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



Richard May
Presiding

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

[Seal of the Tribunal]