



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: 26 February 2004
Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Decision of: 26 February 2004

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**DECISION ON PROSECUTION MOTION FOR CLARIFICATION AND
RECONSIDERATION OF TRIAL CHAMBER'S DECISION ON PROSECUTION
MOTION FOR THE ADMISSION OF WITNESS STATEMENT OF INVESTIGATOR
BERNARD O'DONNELL IN LIEU OF VIVA VOCE TESTIMONY PURSUANT TO
RULES 54 AND 92 *bis***

The Office of the Prosecutor

Ms. Carla Del Ponte
Mr. Geoffrey Nice
Mr. Dermot Groome

The Accused

Mr. Slobodan Milošević

Amici Curiae

Mr. Steven Kay, QC
Mr. Branislav Tapušковиć
Prof. Timothy L.H. 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 “Prosecution Motion for Clarification of Trial Chamber’s Decision on Prosecution Motion for the Admission of Witness Statement of Investigator Bernard O’Donnell in Lieu of Viva Voce Testimony Pursuant to Rules 54 and 92 *bis*”, filed by the Prosecution on 24 February 2004 (“Motion”), requesting

- (a) That the Trial Chamber confirm that it may file as authenticating material in the Bosnia and Croatia parts of the case a declaration from Investigator Bernard O’Donnell; and
- (b) That the Trial Chamber reconsider its decision with respect to documents 24 and 26 on the table of exhibits in the initial Motion concerning Bernard O’Donnell (and attached to Annex B of the Motion);

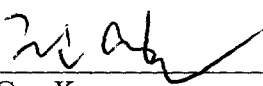
CONSIDERING that the Trial Chamber Decision of 12 February does not impact upon the authentication exercise described in the Motion, the latter process concerning the manner in which the documents came into the possession of the Prosecution,

CONSIDERING that the documents excluded, for which the Prosecution seeks reconsideration, are media reports not tendered through a witness who can contextualise them and give them relevance (and therefore are distinct from the example provided by the Prosecution in its Motion), and that no adequate argument is offered by the Prosecution that would lead the Trial Chamber to reconsider its Decision,

PURSUANT TO Rule 54 of the Rules of Procedure and Evidence of the International Tribunal

HEREBY ORDERS that the Prosecution may file as authenticating material in the Bosnia and Croatia parts of the case a declaration from Investigator Bernard O'Donnell and otherwise **DENIES** the Motion.

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



O-Gon Kwon
Judge

Dated this twenty-sixth day of February 2004
At The Hague
The Netherlands

[Seal of the Tribunal]