



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: 11 March 2004

Original: ENGLISH

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Order of: 11 March 2004

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**ORDER ON PROSECUTION REQUEST FOR CLARIFICATION OF TRIAL
CHAMBER'S "DECISION ON NOTIFICATION OF THE COMPLETION OF
THE PROSECUTION CASE AND MOTION FOR THE ADMISSION OF
EVIDENCE IN WRITTEN FORM" DATED 25 FEBRUARY 2004**

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
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 (“International Tribunal”),

BEING SEISED OF a “Prosecution Request for Clarification of Trial Chamber’s ‘Decision on Notification of the Completion of the Prosecution Case and Motion for the Admission of Evidence in Written Form’ dated 25 February 2004”, filed 2 March 2004 (“Motion”), in which the Prosecution seeks clarification as to which of the 14 intercepts (Exhibit 641, tabs 6 – 19) tendered through the witness Hrvoje Šarinić (“witness”), have been authenticated by the witness,

NOTING the “Decision on Notification of the Completion of Its Case and Motion for the Admission of Evidence in Written Form”, issued on 25 February 2004, in which the Trial Chamber stated that “the intercepts referred to in paragraph 22 of the Motion have been authenticated by the relevant witnesses on the basis that they were either an interlocutor in the conversation or otherwise in a position to identify the participants in and context of the conversation”,¹

NOTING that, by the Prosecution’s own admission, only the intercepted telephone conversations at tabs 9, 14, 16 and 19 of Exhibit 641² are capable of authentication by the witness, the remaining ten intercepted telephone conversations requiring authentication by another witness,³

NOTING the Trial Chamber’s “Preliminary Decision on the Admissibility of Intercepted Communications”, issued on 16 December 2003 (“Preliminary Decision”), in which it admitted 245 intercepted telephone conversations tendered through witness B-1793 on a *prima facie* basis, subject, *inter alia*, to a determination as to their reliability,

CONSIDERING that the intercepted telephone conversations at tabs 9, 14, 16 and 19 of Exhibit 641 are admissible in accordance with the Preliminary Decision, but that the

¹ Decision, p. 3.

² Referred to by Mr. Nice as transcripts 4, 9, 11 and 14 during the testimony of the witness: 22 January 2004, TP 31,297-98.

³ That witness would have been C-1250, who the Prosecution did not call in accordance with its “Notification of the Completion of Its Case and Motion for the Admission of Evidence in Written Form”, filed on 25 February 2004.

remainder of the 14 intercepted telephone conversations have not been authenticated and are not admissible,

PURSUANT TO Rules 54 and 89 of the Rules of Procedure and Evidence of the International Tribunal

HEREBY ORDERS as follows:

- (1) The intercepted telephone conversations at tabs 9, 14, 16 and 19 of Exhibit 641 are admitted into evidence on a *prima facie* basis;
- (2) The Trial Chamber reserves its final ruling with respect to the admissibility of these intercepted conversations subject to a determination as to their reliability; and
- (3) The intercepted telephone conversations at tabs 6, 7, 8, 10, 11, 12, 13, 15, 17 and 18 of Exhibit 641 are not admitted into evidence.

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



Judge Robinson
Presiding

Dated this eleventh day of March 2004
At The Hague
The Netherlands

[Seal of the Tribunal]