



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  
IT-95-13/1-PT  
Date: 11 May 2004  
Original: English

**IN THE TRIAL CHAMBER**

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

**Registrar:** Mr. Hans Holthuis

**Decision of:** 11 May 2004

**PROSECUTOR**

v.

**SLOBODAN MILOŠEVIĆ**

**DECISION ON JOINT MOTION OF THE DEFENCE IN CASE  
*PROSECUTOR v. MRKŠIĆ, RADIĆ AND ŠLIVANČANIN*  
FOR ACCESS TO TRANSCRIPTS AND DOCUMENTS**

**The Office of the Prosecutor**

**Mr. Geoffrey Nice**

**Counsel for Milan Martić**

**Mr. Miroslav Vasić, for Mile Mrkšić  
Mr. Borivoje Borović, for Miroslav Radić  
Mr. Novak Lukić, for Veselin Šljivančanin**

**The Accused**

**Mr. Slobodan Milošević**

**Amici Curiae**

**Mr. Steven Kay, QC  
Mr. 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 “Joint Motion of the Defence in Case of *Prosecutor v. Mrkšić, Radić and Šljivančanin* (IT-95-13/1-PT) for Access to Transcripts and Documents”, filed on 26 February 2004 (“Motion”), in which the defence teams in *Prosecutor v. Mrkšić et al.* seek access to: (1) public and non-public testimony and exhibits in the case of *Prosecutor v. Slobodan Milošević* (“*Milošević case*”) relating to crimes and events in and around Vukovar from the autumn of 1991 and at the “Ovčara” farm; and (2) supporting material in the *Milošević case* relating to the same events;

**NOTING** that the time permitted to the Prosecution to respond to the Motion has passed and that no response has been filed,

**NOTING** further that only a limited number of witnesses have been heard in closed session in the *Milošević case* and that the edited transcripts of the testimony of these witnesses either have been or are to be released to the public by Order of the Trial Chamber,

**NOTING** that, pursuant to Rule 66 (A) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), the Prosecution is required to disclose to the defence teams in *Prosecutor v. Mrkšić et al.* all material that accompanied the indictment in *Prosecutor v. Mrkšić et al.* on confirmation, together with the statements of all witnesses the Prosecution intends to call at trial; all material pursuant to Rule 68 which tends to suggest the innocence or mitigate the guilt of the accused or which may affect the credibility of Prosecution evidence; and, on request of the defence, to permit inspection pursuant to Rule 66 (B) of all items that are material to the preparation of the defence or are intended for use by the Prosecution as evidence or trial or were obtained from or belonged to, the accused,

**CONSIDERING** the provisions of Article 21, paragraph 2, of the Statute of the International Tribunal which guarantees the right to a public hearing,

**CONSIDERING** that the redacted transcripts of the evidence of witnesses given in closed session and any exhibits introduced through those witnesses are or will shortly be available to the defence through the Registry of the International Tribunal,


**CONSIDERING** that requests for access to other confidential materials produced in the *Milošević* case are premature, as much of this material may be subject to mandatory disclosure under Rules 66 and 68 of the Rules,

**PURSUANT TO** Rule 54 of the Rules of Procedure and Evidence

**HEREBY ORDERS** as follows:

- (1) The defence teams in *Prosecutor v. Mrkšić et al.* are directed to liaise with the Registrar of the International Tribunal to establish mutually convenient methods of provision of the transcripts of all open session or redacted closed session testimony and all public exhibits in the part of the case of *Prosecutor v. Slobodan Milošević* pertaining to crimes and events in and around Vukovar from the autumn of 1991 and at the “Ovčara” farm; and
- (2) The defence teams in *Prosecutor v. Mrkšić et al.* may apply to the Trial Chamber for specific orders in respect of any closed session material which they believe is likely to materially assist their defence and which the Prosecution is not otherwise obliged to disclose.

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



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Patrick Robinson  
Presiding

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

[Seal of the Tribunal]