

**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-95-11-T
Date: 17 November 2006
Original: English

IN TRIAL CHAMBER I

Before: Judge Bakone Justice Moloto, Presiding
Judge Janet Nosworthy
Judge Frank Höpfel

Registrar: Mr. Hans Holthuis

Decision of: 17 November 2006

PROSECUTOR

v.

MILAN MARTIĆ

**DECISION ON DEFENCE'S SUBMISSION PURSUANT
TO THE TRIAL CHAMBER'S ORDER OF 9 JUNE 2006**

The Office of the Prosecutor:

Mr. Alex Whiting
Ms. Anna Richterova
Mr. Colin Black
Ms. Nisha Valabhji

Counsel for the Accused:

Mr. Predrag Milovančević
Mr. Nikola Perović

TRIAL CHAMBER I (“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 (“Tribunal”);

BEING SEISED of the “Defence’s Submission pursuant to the Trial Chamber’s Order of 9 June 2006” (“Defence Submission”), filed on 4 October 2006, in which the Defence requests the Trial Chamber to admit into evidence excerpts of Prosecution interviews with Milan Babić (“Prosecution Interviews”), as listed in Annex A and provided in Annex B to the Defence Submission;¹

RECALLING the Trial Chamber’s “Decision on Defence Motion to Exclude the Testimony of Witness Milan Babić, together with Associated Exhibits, from Evidence” (“Decision”), filed on 9 June, in which the Trial Chamber ordered the Defence, if it chose to avail itself of the option provided to it, to file:

- a. a list, containing precise page and line references to the transcript, of the exact portions of the evidence-in-chief of Milan Babić upon which it intended, but was unable, to cross-examine as a result of his death;
- b. any documents it intended to use in order to challenge those specific portions of Milan Babić’s evidence-in-chief, filed under [a] above; and that if among those documents, the Defence intends to file any prior testimony or statements of Milan Babić, the Defence shall identify the exact portions of the prior testimony or statements which it considers to be inconsistent with the testimony of Milan Babić before this Trial Chamber;

RECALLING ALSO that in the Decision, the Prosecution, was ordered “if it chooses to do so, to submit within seven days of the Defence submission under [a], a list of documents, if any, which it wishes to tender by way of re-examination, and any objections it may have to the admission of the documents tendered by the Defence”;

NOTING the “Prosecution’s Response to the Defence’s Submission pursuant to the Trial Chamber’s Order of 9 June 2006”, filed on 16 October 2006 (“Prosecution Response”), in which the Prosecution submitted that it does not object to the excerpts of the Prosecution Interviews to be admitted into evidence² and requested the Trial Chamber to admit into evidence additional excerpts

¹ The Defence filed a “Corrigendum to Defence’s Submission dated 4 October 2006” on 2 November 2006, in which it corrected a typographical error in Annex A to the Defence Submission and clarified that Annex B to the Defence Submission contained two pages the Defence does not seek to admit.

² Prosecution Response, para. 2.

of the Prosecution Interviews “in order to put the excerpts selected by the Defence into the proper context”;³

NOTING that the Defence did not file a response to the Prosecution Response, in spite of having been expressly permitted to do so pursuant to the Decision;

CONSIDERING that the excerpts of the Prosecution Interviews, as submitted by the Defence and the Prosecution, are relevant and have probative value;

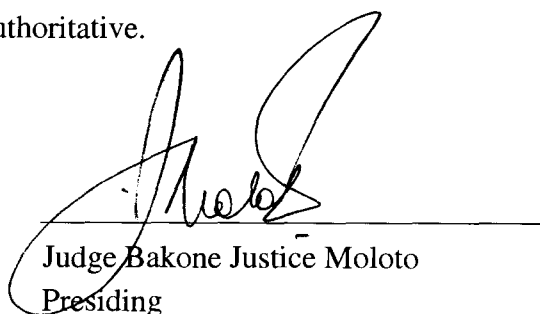
PURSUANT TO Rule 89 of the Rules of Procedure and Evidence;

ADMITS into evidence the excerpts of the Prosecution Interviews as detailed in the Annex to this Decision (“Annex”);

ORDERS the Prosecution to provide an electronic version of the excerpts of the Prosecution Interviews, as detailed in the Annex and in accordance with the technical formatting requirements of the Registry, and to upload it into E-Court;

REQUESTS the Registrar to assign a Chamber’s exhibit number to each of the groups of excerpts of the Prosecution Interviews, as detailed in the Annex.

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



Judge Bakone Justice Moloto
Presiding

Dated this seventeenth day of November 2006

At The Hague

The Netherlands

[Seal of the Tribunal]

³ Prosecution Response, para. 3

ANNEX

Pages of Prosecution Interviews

Group 1

L0079289:6 - L0079291:4
 L0079358:13 - L0079366:20
 L0079636:17 - L0079636:21
 L0079640:23 - L0079644:23
 L0079631:13 - L0079631:21
 L0079655:16 - L0079663:23
 L0092031:11 - L0092031:17

Group 7

L0079571:12 - L0079572:3
 L0079573:16 - L0079574:7

Group 13

L0079318:23 - L0079320:25
 L0079521:12 - L0079524:24
 L0079531:4 - L0079535:4
 L0079540:20 - L0079541:2
 L0079590:18 - L0079590:22
 L0079493:21 - L0079495:1
 L0079519:11 - L0079520:9
 L0079554:2 - L0079556:5

Group 2

L0079794:9 - L0079798:18
 L0092279:11 - L0092279:18
 L0079280:16 - L0079287:22
 L0079768:17 - L0079771:8
 L0092227:2 - L0092229:36

Group 8

L0079798:1 - L0079798:4
 L0092282:5 - L0092283:11
 L0092001:13 - L0092001:22
 L0092289:14 - L0092290:11

Group 14

L0079748:11 - L0079759:19
 L0079613:24 - L0079636:1
 L0079773:6 - L0079774:25

Group 3

L0079324:4 - L0079325:1
 L0079851:4 - L0079851:11
 L0079314:1 - L0079317:18
 L0092003:17 - L0092003:31

Group 9

L0079798:5 - L0079798:7
 L0091999:12 - L0091999:28
 L0092001:25 - L0092002:28
 L0092006:1 - L0092006:9

Group 15

L0079128 - L0079143

Group 4

L0079724:14 - L0079727:3
 L0091994:24 - L0091996:30

Group 10

L0079798:8 - L0079798:18
 L0079799:3 - L0079799:6
 L0092279:2 - L0092280:5
 L0092006:1 - L0092006:9
 L0092011:1 - L0092012:7

Group 5

L0079444:19 - L0079451:11

Group 11

L0079287:20 - L0079287:22
 L0079290:14 - L0079294:19
 L0079678:20 - L0079685:20
 L0092017:3 - L0092018:11
 L0092047:10 - L0092047:26
 L0092048:17 - L0092048:23
 L0092048:29 - L0092049:18
 L0092050:24 - L0092050:34
 L0092051:25 - L0092052:7
 L0092057:18 - L0092057:29
 L0092073:19 - L0092073:23
 L0092285:2 - L0092286:7
 L0092287:15 - L0092288:17
 L0092289:4 - L0092289:7

Group 6

L0079814:10 - L0079816:16
 L0079818:1 - L0079818:14
 L0092033:22 - L0092036:3
 L0079960:7 - L0079961:4

Group 12

L0079544:13 - L0079545:4
 L0079287:20 - L0079287:22
 L0079289:11 - L0079289:12
 L0079493:21 - L0079493:25