



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-98-29/1-T

Date: 12 January 2007

Original: English

IN TRIAL CHAMBER III

Before: Judge Patrick Robinson, Presiding
Judge Antoine Kesia-Mbe Mindua
Judge Frederik Harhoff

Registrar: Mr. Hans Holthuis

Decision of: 12 January 2007

PROSECUTOR

v.

DRAGOMIR MILOŠEVIĆ

**DECISION ON PROSECUTION MOTION FOR
ADMISSION OF WITNESS WRITTEN STATEMENT
PURSUANT TO RULE 92*ter* OF THE RULES OF
PROCEDURE AND EVIDENCE**

The Office of the Prosecutor:

Mr. Alex Whiting
Mr. Stefan Waespi
Ms. Carolyn Edgerton
Mr. John Docherty

Counsel for the Accused:

Mr. Branislav Tapušković
Ms. Branislava Isailović

TRIAL CHAMBER III (“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 “Prosecution Motion for Admission of Witness Written Statement Pursuant to Rule 92 *ter* of the Rules of Procedure and Evidence, with Confidential Annex A”, filed on 5 January 2007 (“Motion”), in which the Prosecution requests the Trial Chamber to admit into evidence the written statement of witness W-41;

NOTING that a redacted copy of the witness’ statement is attached as Confidential Annex A to the Motion;

NOTING that the Defence have indicated that they do not object to the admission into evidence of the written statement;

NOTING Rule 92 *ter* of the Rules of Procedure and Evidence (“Rules”), pursuant to which a Trial Chamber may admit the evidence of a witness in the form of a written statement if the witness is present in court, available for cross-examination and any questioning by the Judges and if the witness attests that the statement accurately reflects the witness’ declaration and what the witness would say if examined;

NOTING that W-41 is scheduled to appear in court in the week of 15 January 2007, at which time the requirements of Rule 92 *ter* can be fully met;

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 92 *ter* of the Rules,

HEREBY GRANTS the Motion,

ORDERS that the written statement of witness W-41, as submitted in Confidential Annex A to the Motion, be admitted into evidence, subject to the witness:

- 1) appearing in court
- 2) being available for cross-examination and questioning by the Judges, and
- 3) attesting that the written statement accurately reflects his declaration and what he would say if examined, and

Requests the Registrar to assign an exhibit number to the written statement as soon as these requirements are met.

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



Judge Patrick Robinson
Presiding

Dated this twelfth day of January 2007
At The Hague
The Netherlands

[Seal of the Tribunal]