

**UNITED  
NATIONS**



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-04-82-T  
Date: 14 May 2007  
Original: English

**IN THE TRIAL CHAMBER II**

**Before:** Judge Kevin Parker, Presiding  
Judge Christine Van Den Wyngaert  
Judge Krister Thelin

**Registrar:** Mr Hans Holthuis

**Decision:** 14 May 2007

**PROSECUTOR**

v.

**LJUBE BOŠKOSKI  
JOHAN TARČULOVSKI**

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**DECISION ON PROSECUTION'S MOTION FOR ADMISSION  
OF EXHIBITS FROM THE BAR TABLE WITH  
CONFIDENTIAL ANNEXES A TO E**

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**The Office of the Prosecutor:**

Mr Dan Saxon  
Ms Joanne Motoike  
Mr Matthias Neuner

**Counsel for the Accused:**

Ms Edina Rešidović and Mr Guénaél Mettraux for Ljube Boškosi  
Mr Antonio Apostolski and Ms Jasmina Zivković for Johan Tarčulovski

1. This decision of Trial Chamber II is in respect of the “Prosecution’s Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A to E”, filed partly confidentially on 23 March 2007 (“Motion”) seeking the admission into evidence of 175 exhibits.<sup>1</sup> On 6 April 2007 Counsel for Ljube Boškoski (“Boškoski Defence”) filed “Boškoski Defence Response to Prosecution Motion for Admission of Proposed Exhibits from the Bar Table” (“Boškoski’s Response”) requesting that the Motion be dismissed summarily as being premature. Should the Trial Chamber nevertheless consider the Motion on its merits, the Boškoski Defence requested that the proposed exhibits in the Motion be declared inadmissible. On 6 April 2007, Counsel for Johan Tarčulovski (“Tarčulovski Defence”) filed confidentially “Johan Tarčulovski Response to Prosecution’s Motion for Admission of Exhibits from the Bar” (“Tarčulovski’s Response”) requesting that the Motion be dismissed. On 17 April 2007, the Prosecution filed partly confidentially “Prosecution’s Reply with Confidential Annexes A and B to Responses of Boškoski and Tarčulovski to Prosecution Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A Through E” (“Prosecution’s Reply”) requesting that it be granted leave to file the reply, to exceed the word limit, and to remove documents with Rule 65*ter* numbers 14 and 243 from the Rule 65*ter* list. Otherwise it was submitted that the Defence responses should be rejected. On 18 April 2007, the Boškoski Defence sought leave to respond to the Prosecution Reply<sup>2</sup> and on 19 April 2007 the Prosecution sought leave to further reply.<sup>3</sup>

#### A. Submissions

2. The Prosecution has submitted that a decision to admit the proposed exhibits now will result in savings of time and effort at trial by avoiding unnecessary discussions about the admissibility of this evidence. Further, it is submitted, admission of these documents now will provide the Trial Chamber with more context for understanding witness testimony during the trial, thereby making

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<sup>1</sup> Confidential Annex A includes a letter of 31 January 2007 from the Defence of Johan Tarčulovski to the Prosecution re: the admission of exhibits from the Prosecution’s First Amended Exhibit List. Confidential Annex B includes a letter of 12 December 2005 from the Defence of Ljube Boškoski to the Prosecution re: the admission of exhibits from the Prosecution’s List of Exhibits filed on 7 November 2005. Confidential Annex C includes correspondence between the Defence of Ljube Boškoski and the Prosecution re: admission on Prosecution exhibits. Confidential Annexes D and E are on a CD ROM marked “D 13102”. Confidential Annex D consists of a table describing for each of the 175 exhibits sought admitted with the present Motion: 65*ter* exhibit number (column A), description of exhibit (column B), source of document and indicia of reliability (column C), Original ERN (Column D), relevance (Column E), probative value (Column F), keypoints (Column G), Discuss – Tender with Witness (Column H) and “Add. Comments - For Internal Use Only” (Column I). Confidential Annex E is a CDROM containing copies of each exhibit submitted in the present motion in English and in the original Macedonian. On 26 March 2007, the Prosecution filed “Corrigendum to Prosecution’s Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A Through E, seeking to replace paragraph 3 of the Motion.

<sup>2</sup> Boškoski Defence Motion for Leave to Respond and Response to Prosecution Reply Re: Bar Table Motion, filed partly confidentially on 18 April 2007.

<sup>3</sup> Prosecution Motion for Leave to Reply and Reply to Boškoski Defence Motion for Leave to Respond and Response to Prosecution Reply Re Bar Table Motion filed 18 April 2007, filed on 19 April 2007.

the entire trial process more effective.<sup>4</sup> Further, it is submitted that each document proposed for admission into evidence as an exhibit is relevant and probative to factual and legal issues of the present case and the Prosecution refers to Confidential Annex D attached to the Motion.<sup>5</sup>

3. Both Defences have submitted that the Prosecution's Motion is premature. They refer to Rule 85(A) of Rules and Procedure and Evidence ("Rules") which makes it clear that evidence for the Prosecution is to be presented "at the trial" and not before that time.<sup>6</sup> It is further submitted that a number of witnesses, whom the Prosecution intends to call will be able to give evidence about some of these proposed exhibits.<sup>7</sup>

4. The Boškoski Defence further contends that the Motion contains many annexes which, in turn, contain submissions, a practice the Tribunal does not allow. However, to the extent that the information contained in the annexes is considered by the Trial Chamber to be relevant to its considerations, the Boškoski Defence would not request that the annexes be struck out.<sup>8</sup>

5. The Boškoski Defence further submits that the Prosecution has made concessions as to the inadmissibility of certain proposed exhibits. It refers to column "I" of Annex D attached to the Prosecution's Motion entitled "For Internal Use Only".<sup>9</sup>

6. Finally, the Boškoski Defence does not object to the authenticity of the proposed exhibits.<sup>10</sup> However, it objects to the admission at this stage of a number of them due to lack of (i) relevance; (ii) sufficient indicia of reliability or (iii) probative value.<sup>11</sup> Further, it is submitted with respect to several exhibits that the Prosecution has failed to establish what parts of those exhibits are relevant to the charges.<sup>12</sup>

7. The Tarčulovski Defence has objected to the admission of four exhibits either as they do not meet the admissibility criteria or for technical reasons.<sup>13</sup> No objection is made to the authenticity of any of the proposed exhibits by the Tarčulovski Defence.

8. The Trial Chamber grants the Prosecution leave to reply to Boškoski's response. However, it does not grant leave to the Boškoski Defence to respond to Prosecution's Reply and the Prosecution leave to reply to Boškoski Defence Motion for Leave to Respond and Response to

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<sup>4</sup> Motion, para 1.

<sup>5</sup> Motion, para 3.

<sup>6</sup> Boškoski's Response, para 11; Tarčulovski's Response, para 7.

<sup>7</sup> Boškoski's Response, para 13; Tarčulovski's Response, para 9.

<sup>8</sup> Boškoski's Response, para 6.

<sup>9</sup> Boškoski's Response, paras 16 and 25; Boškoski's Response to Reply, paras 4-6.

<sup>10</sup> Boškoski's Response, para 20.

<sup>11</sup> Boškoski's Response, paras 26 and 33.

<sup>12</sup> Boškoski's Response, paras 24 and 29.

Prosecution Reply re: Bar Table Motion of 18 April 2007 as there was no adequate justification for these further submissions.

## **B. The law**

9. Pursuant to Rule 89(C) of the Rules a Chamber may admit any relevant evidence which it deems to have probative value. As has been said in the jurisprudence of this Tribunal, “evidence is admissible only if it is relevant and it is relevant only if it has probative value.”<sup>14</sup> In this Decision the Chamber will often refer to the reliability of a proposed exhibit, essentially as a convenient description of the notion of probative value required by the Rule.<sup>15</sup> The Chamber recognises that the two concepts need to be distinguished for some purposes, but these do not arise in the context of the present Motion.

10. By way of general comment with respect to some of the submissions of the parties, while the Rules are not explicit on this matter, an exhibit may be admitted during a trial at any convenient time, once it is established that there is a sufficient basis on which the Chamber can be satisfied that the exhibit is apparently relevant and of probative value. As a general rule, it will be necessary for the Chamber to receive evidence from one or more witnesses, who can speak about a proposed exhibit, before the Chamber can be satisfied that there is sufficient apparent relevance and reliability to justify the admission of an exhibit. This evidence can be received by way of written statement admitted pursuant to Rule 92*bis* or Rule 92*ter*, or by oral evidence.

11. A decision by a Chamber to admit an exhibit is, in no way, a final decision of the Chamber about the ultimate relevance or the reliability of the exhibit, or about the probative value of any evidence which the Chamber relied on when admitting the exhibit into evidence. Such decisions are merely procedural, and provisional, and are made in light of the evidence in the trial, and the issues, as they appear at the time of the decision to admit an exhibit. Final evaluations of the relevance, reliability and weight accorded an exhibit are made in light of all evidence including exhibits, typically when the Chamber is reaching its final decision in the trial.

12. The decision whether to admit a document as an exhibit will also be influenced by any objection made to its admission. The nature of an objection, and the basis for it, may require that a

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<sup>13</sup> Tarčulovski’s Response, paras 11 and 12.

<sup>14</sup> *Prosecutor v. Galić*, Case No: IT-98-29-AR73.2, “Decision on Interlocutory Appeal Concerning Rule 92*bis* (C), 7 June 2002, para 35.

<sup>15</sup> *Prosecutor v. Milutinović et al.*, Case No: IT-05-87-T, “Decision on Prosecution’s Motion to Admit Documentary Evidence”, 10 October 2006, para 10 quoting *Prosecutor v. Tadić*, Case No: IT-94-1-T “Decision on Defence Motion in Hearsay, 5 August 1996, para 15 in which the Trial Chamber held that “if evidence offered is unreliable, it certainly would not have probative value.” See also *Prosecutor v. Mrksić et al.*, Case No: IT-95-13/1-T, “Decision on Mile Mrksić’s Motion for Admission of Documents”, 21 November 2006.

decision whether to admit it as an exhibit should be delayed, in particular where it appears that further questioning of the present or another witness may be material to the objection or to its determination. This does not necessarily mean that a decision should not be made about the admissibility of a proposed exhibit, until all witnesses who can speak about the exhibit have given evidence. The Chamber will need to evaluate in each case whether it is necessary or preferable to hear some or all of the anticipated evidence relevant to a document, which is the subject of an objection, before admitting it as an exhibit.

13. Further, it follows from these general observations, that, at least in some circumstances, the relevance and reliability of a document may be sufficiently apparent to justify its admission as an exhibit without the need for any evidence or any further evidence, relating to the document. This may be the case even though there is an objection to its admission. It is on this basis that the Prosecution has moved to admit 175 documents as exhibits.

14. Of course, it is for the party, which moves to have a document admitted into evidence to demonstrate its relevance and reliability sufficiently to justify its admission at that stage of the proceedings. The Chamber would also note, that at the time submissions were made the trial had not commenced. This was a relevant consideration to the Defence general submission that the motion was premature. In this respect, as the trial has now formally commenced, the issue whether the admission of a document as an exhibit would be premature is moot.

15. In assessing the relevance of a potential exhibit the moving party will be expected to demonstrate where and how each document fits into its case.

16. The Chamber also notes that where, in this Decision, it refers to the proposed exhibits by a number, this number corresponds to the number given to that document in the Prosecutor's Rule 65ter (E) (iii) list of intended exhibits.

### **C. Preliminary issues**

17. The Boškoski Defence has submitted that the Prosecution has made concessions regarding the admissibility of many of its proposed exhibits in comments in column I which is headed "For Internal Use Only" in the table in Confidential Annex D. The Prosecution initial response was to deny there is a column I,<sup>16</sup> but this position was not maintained. Column I existed in the electronic version of Annex D, but was not in the paper version. This was an oversight by the Prosecution. The Chamber does not consider such comments to be determinative as to the issue of admissibility

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<sup>16</sup> Prosecution's Reply, para 10.

of various documents dealt with in Annex D. Rather, the Chamber will evaluate these issues, having regard to the substantive submissions of the parties.

18. The Boškoski Defence also submits that the Prosecution - contrary to the jurisprudence of this Tribunal - has made submissions in the Annexes to its Motion. In the view of the Trial Chamber there are no submissions made in Annexes A to C or in Annex E. The notations made in Annex D seek merely to demonstrate the relevance and probative value of the proposed exhibits.

19. The Trial Chamber is not in a position on this Motion at the moment to decide as to the relevance of the following documents as they have not been provided to the Chamber with an English translation, neither in Confidential Annex D to the present Motion or on eCourt: These are documents 20, 35, 394, 410, 533, 550, 553, 559, 562, 568, 570, 571, 601, 602 and 603. It will be for the Prosecution to later make submissions if it is still seeking the admission into evidence of those documents.

20. As to the following documents, English translations were not attached to the present Motion. However, the Trial Chamber was able to locate the translations on eCourt. These are documents 12, 97, 101, 249, 258, 285, 561, 563, 565 and 567.

21. The Prosecution has in its Reply sought permission to withdraw documents 14 and 243 from its *65ter* list. The Trial Chamber grants this request.

## **D. Discussion**

### **1. Court files**

22. Documents 10-12 and 15-19 are court files regarding prosecution of various Ljuboten residents, document 13 is a court file on investigative work done by the Skopje Basic Court II and document 21 is a court file regarding the exhumation of Ljuboten victims. These exhibits are official court files and there is nothing to suggest otherwise, the Trial Chamber does not consider that there is at present any reason to question the reliability of these exhibits. The Prosecution contends they have potential relevance to the alleged failure of Ljube Boškoski to investigate and punish subordinates who are alleged to have committed the crimes charged in the Indictment. The Prosecution has specified in its Motion which part(s) of each exhibit has relevance to the charges in the Indictment, by the “keypoints” in column G in Annex D in which the relevant documents have been specified. They should therefore be admitted.

### **2. Various decisions, instructions and letter issued by the Accused Ljube Boškoski**

23. Documents 25-28, 30-33, 36-44, 47-49, 52-53, 82, 84, 87 are in the form of orders or documents said to record the decisions of Ljube Boškoski in his capacity as Minister of Interior in respect of various appointments and assignments, the regulation of various matters relating to members of a battalion of the police, and procedures for the issuance of identification cards to reserve personnel. These documents were obtained from the archives of the Ministry and there is no issue as to their authenticity. The relevance of these documents to the allegations in the Indictment, as well as their apparent reliability, has been sufficiently demonstrated for the purposes of this Motion. Document 393, also obtained from the archives of the Ministry, is in the form of a report, a so-called “information”, regarding the security situation in the Tetovo region apparently made by Ljube Boškoski to the Government of the Republic of Macedonia. Contrary to the submission by the Boškoski Defence,<sup>17</sup> this document appears to be complete, since the cover letter refers to the one document enclosed. In the absence of any dispute as to its authenticity, the relevance of this document has been sufficiently demonstrated in relation to the issue of armed conflict and it bears sufficient indicia of reliability. Document 46 is said to be an appointment signed by Ljube Boškoski to chair the first inquiry into the events at Ljuboten. It is said to have been provided by Mr Mitevski to investigators. In the absence of any dispute as to its authenticity its potential relevance and probative value is sufficiently demonstrated to justify its admission at this stage of the trial. All the documents now mentioned should therefore be admitted.

### 3. Laws and internal regulations

24. Documents 83, 85, 88-93, 95, 97, 102/323 contain Macedonian laws such as the Criminal Code, the Amnesty Law, the Law on Internal Affairs, the Code of Criminal Procedure, the Law on the Public Prosecutor’s Office, the Law on the Courts and the Constitution. Their potential relevance is self – evident when read with the “keypoints” in column G in Annex D, as is their reliability having regard to the nature of the documents.

25. Documents 98-101 contain regulations issued by the Ministry of Interior concerning matters such as procedures for issuing official weapons and communication equipment to authorised personnel, the internal organisation and work of the Ministry of Interior, the use of firearms and internal rules for the work of the Ministry. Their nature sufficiently demonstrates for present purposes their potential relevance as well as their reliability. The Prosecution has sufficiently identified the portions particularly relied on. The tendered documents on laws and regulations should therefore be admitted.

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<sup>17</sup> Boškoski’s Response, para 27.

#### 4. Various documents of the Ministry of Interior

26. A number of exhibits are documents which on their face have been submitted within the Ministry of Interior from various offices of the Ministry:

Documents 258, 453, 481, 541, 544-546, 548-549, 560-561, 563-567, 569, 578-580, 593 and 595 are “official notes” produced, respectively, by the Police Stations in Čair and Mirkovci as well as the Sector of Internal Affairs transmitting information received from various authorised officials, from other police stations or of activities conducted by the organ itself;

Documents 485, 547, 592 and 596 are documents with the heading “operative information” from Police Stations in Mirkovci and Čair as well as from the Department of Internal Affairs Čair;

Documents 247, 409, 487, 489-490, 492, 494, 501-510, 514, 516-517, 519-526, 529-532, 535-538, 551-552, 555-558, 572-575 and 599 are apparently reports submitted by a senior officer at OVR Čair;

Documents 576-577 and 582-583 are reports from Police Station Čair and statements taken at this police station;

Documents 495, 500, 511, 515 and 527 are apparently telegrams submitted from Police Station Mirkovci by its commander Lt. Slavko Ivanovski;

Documents 590 and 591 appear to be plans submitted by a senior officer at OVR Čair, pertaining to the demolition of some houses and a work plan for the Police Station Čair.

27. These groups of documents have apparent relevance at least on one basis, namely the nature, existence and observance of a reporting system within the Ministry of Interior, which in the Prosecution case, operated in the area, in which Ljuboten is situated, around the time relevant to the Indictment. All of the documents are said to have been obtained from official archives of the Macedonian Ministry of Interior, and their authenticity is not disputed. There is a demonstrated relevance and an apparent reliability or probative value of the documents, which is sufficient to justify their admission at this stage as an exhibit. It is emphasised that these documents are admitted with a view to prove a reporting system and not to prove their content. In the circumstances, their relevance and reliability for that purpose is sufficiently demonstrated. Some of the documents, from their content, may well have some relevance to other issues. If they are to be relied on for other purposes, other evidence may well be necessary to enable the documents to be



relied on to establish the truth of their contents. The subject-matter of some of them may also become the subject of *viva voce* evidence or other documentary evidence, but this does not render them inadmissible before that other evidence is given. Further, in the Motion, the Prosecution has sufficiently identified to which charges in the Indictment the evidence relates.

28. Regarding exhibit 567 and the Boškoski Defence's submission that the actual relevancy of the evidence needs to be explained,<sup>18</sup> the general relevance identified above is sufficient to justify its admission. As to the documents 453, 490 and 557, the Boškoski Defence has submitted that these exhibits are incomplete as attachments are missing.<sup>19</sup> An incomplete document is not necessarily inadmissible. The documents which are submitted tend to prove the nature and functioning of a reporting system. For that purpose, the attachments are not necessary and do not determine the admissibility of these documents. Further, the Prosecution has, in its Reply, provided the four missing attachments to document 453. The Tarčulovski Defence has also objected to the admission of document 557 which it submits is an unreadable copy.<sup>20</sup> In the view of the Chamber this document is legible both in Macedonian and in English translation. Both Defences have also objected to the admission of exhibit 599 on the basis that the document is illegible. The Trial Chamber notes that some passages of the document are illegible, but is satisfied that despite this, the document is relevant for the purpose of proof of the existence and nature of a reporting system and the illegible passages do not materially detract from its reliability for this limited and specific purpose. Also these documents should be admitted.

29. Documents 249, 462, 482 and 598 do not appear to be reports themselves, but rather commentaries and analysis which in some cases may have been based on reports received. Accordingly, they may not be used to prove a functioning reporting system. While document 249, 462 and 598 may still be relevant to other issues, the sources and the nature of the material relied upon for preparing the reports is not sufficiently clear to justify their admission at this stage. These documents will not be admitted.

30. As the documents 258 and 566 are identical, only one of them will be admitted into evidence. Therefore, document 258 will not be admitted as an exhibit.

## 5. Various documents

31. Document 3 is an apparently official book published by the Ministry of Internal Affairs entitled "The White Book". It deals with what it describes as the armed conflict in Macedonia in

<sup>18</sup> Boškoski's Response, para 29.

<sup>19</sup> Boškoski's Response, para 27.

<sup>20</sup> Tarčulovski's Response, para 11.

2001. The relevance and reliability of this evidence is sufficiently demonstrated for its admission into evidence at this stage.

32. Document 55<sup>21</sup> appears to be an excerpt from a record book on the Ministry of Interior on daily events. It includes the names of 49 individuals detained from Ljuboten at the relevant time; all the names being Albanian. Given the nature of this record book, which has been obtained from the Ministry of Interior, there is an apparent reliability. Its content, with other anticipated evidence, is relevant to the issues of the detention and treatment of Albanians from Ljuboten in the police stations named in the document, and it should therefore be admitted.

33. Document 86 consists of a “Framework Agreement” dated 13 August 2001 and provides an agreed framework for securing the future of the Republic of Macedonia both on foreign relations and the development of civil society. It appears to have been published on the Internet by the Government of Macedonia in 2004. In the absence of any dispute as to its authenticity, the Trial Chamber is satisfied as to the reliability and relevance of this document, especially in relation to the issues of armed conflict and ethnic divisions in Macedonia, for its admission at this stage.

34. Document 262 is a report by the Public Prosecutor in Skopje relating to events in Ljuboten at the time relevant to the Indictment. Its potential relevance is clear. The document bears sufficient indicia of reliability to justify its admission into evidence. The Boškoski Defence has objected to its admission on the ground that the original text is missing.<sup>22</sup> However, the Chamber notes that the English translation has been provided in Confidential Annex E to the Motion together with the original text in Macedonian. This objection is therefore dismissed, and the document should be admitted.

35. Document 420 contains a proposal from the Public Safety Directive of the Ministry of Interior for exhumation and autopsies of five persons killed in Ljuboten at the relevant time. This document, which is obviously relevant, bears sufficient indicia of reliability to justify its admission into evidence.

36. Document 29 appears to be a decision of 7 November 2003 of the Ministry of Interior apparently issuing licences and permission for work to the Association for trading and services “KOMETA”. The relevance of this document is not presently apparent, and it should therefore not be admitted.

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<sup>21</sup> In the Motion, the Prosecution has referred to this document as document number 54. However, in the Prosecution’s Reply, para 19 (g), the Prosecution has corrected the document number to document number 55 while still referring to the same document. The Defence has responded to document number 55, see Boškoski’s Response, para 28.

<sup>22</sup> Boškoski’s Response, para 27.

37. Document 229 is said to be a report concerning Macedonian military activities on 12 August 2001. It appears to be signed by a Lieutenant Marijo Jurisić. In the view of the Chamber the source of the content of this report is not sufficiently demonstrated to enable it to be accepted as reliable and admitted.

38. While document 246 purports to be an internal document of the Ministry of Interior, it is not apparent from the document itself, and the evidence presently before the Chamber, that its content can be accepted as reliable and admissible.

39. Document 285 contains a request from the Office of the Prosecutor, and the response with attached documents by the Macedonian Ministry of Interior, in relation to the Macedonian Ministry of Interior's second commission set up in 2003 to investigate the Ljuboten events in August 2001. Some of the attached documents are records of interviews with the Accused Johan Tarčulovski. The Defence has objected, in particular, that the legal rights of the Accused were not observed during these interviews. This issue needs to be considered in light of further evidence. Rule 95 may also need to be considered. Therefore, it is not in the interest of justice to presently admit document 285.

40. Document 382 is a letter from the Ministry of Interior, signed by Laze Velkovski, advising that no investigation, indictment, criminal prosecution or other procedure by the Public Prosecutor or the Court, had been initiated against any non-Albanian national for violations of International Humanitarian Law in Macedonia in 2001. Its potential relevance to the allegations of a failure to investigate and to punish is apparent. The letter was apparently in response to an official inquiry by the Office of the Prosecutor. Given the materiality and the scope of the content, in the view of the Chamber, the interests of justice would be better served, if this document was introduced into evidence through a witness, who could give oral evidence as to its provenance, so allowing opportunity for cross-examination, if that is desired. It will therefore not be admitted.

41. Document 397 appears to be a letter dated 8 August 2001 from the Ministry of Interior to the Ministry of Foreign Affairs, regarding a "terrorist group" which had been discovered and eliminated in the Skopje area. Without further evidence as to the factual basis for this letter it is not sufficiently apparent that it is reliable and, therefore, admissible.

42. Document 419 appears to be an official note concerning a meeting, at which autopsies of the victims of the military activities in the area of Ljuboten at the relevant time were discussed. Given the significance of the issue of autopsies, the interests of justice would be better served if oral evidence regarding these investigations were led. This note, its relevance and reliability, could then be assessed in light of that evidence and its admissibility then determined. It will, therefore, not be

admitted.

43. Document 421 appears to be an Annex to another document. The relevance of this evidence is sufficiently demonstrated in relation to alleged attacks in the area of Ljuboten after 13 August 2001. However, as the sources and materials relied upon in the document remain unknown, lack of reliability renders this evidence inadmissible at this stage.

44. Document 435 appears to be an official note reporting on the interview at the Mirkovci Police Station with Atulla Qaili – a victim of the charge of murder alleged in the Indictment – and his health situation. The relevance of this evidence is sufficiently demonstrated. In the absence of sufficient information as to the source of the information in this report, it has not shown to be sufficiently reliable to justify its admission at this stage of the trial.

45. Documents 436 and 438 both contain criminal charges from 1990 and 1980, respectively. As these documents do not relate to either of the Accused, or to the events in Ljuboten in 2001, and their possible connection to anticipated witnesses is not shown, their relevance to the issues in this case has not been demonstrated. They will, therefore, not be admitted.

46. As some of the abovementioned documents have already been admitted into evidence during the trial, the Motion is considered moot in relation to those documents, which are documents with the following ERN number: 0463-8776-0463-8784 (Indictment of nine accused from Ljuboten),<sup>23</sup> N000-4423-N000-4425 (Ruling by the Trial Chamber of the Lower Court Skopje II),<sup>24</sup> 0463-8814 (Report re: seized firearms),<sup>25</sup> 0463-8853-0463-8856 (Interrogation of witness M017),<sup>26</sup> 0463-8827 (Certificate on temporary seized possessions of witness M017)<sup>27</sup> and 0463-8808-0463-8810 (Criminal charges brought against the witness M017).<sup>28</sup>

For the foregoing reasons, pursuant to Rules 54 and 89 of the Rules, the Chamber

**DECIDES** as follows:

- (1) The Motion is moot regarding the admission of the documents identified by the Rule 65ter numbers 14 and 243 as they are withdrawn by the Prosecution;

<sup>23</sup> T 657-660, admitted as exhibit P26 (under seal). The ERN number of exhibit P26 is N000-4410-N000-4418, but is identical to the document bearing the ERN number 0463-8776-0463-8784. This document was proposed for admission under document 10.

<sup>24</sup> T 660-662, admitted as exhibit P27 (under seal). This document was proposed for admission under document 12.

<sup>25</sup> T 662-664, admitted as exhibit P28 (under seal). This document was proposed for admission under document 10 with ERN number N000-4423-N000-4425 as well as document 437 with ERN number N005-1138-N005-1139.

<sup>26</sup> T 664-670, admitted as exhibit P29 (under seal). This document was proposed for admission under document 10.

<sup>27</sup> T 670-671, admitted as exhibit P30 (under seal). This document was proposed for admission under document 10.

<sup>28</sup> T 671-674, admitted as exhibit P31 (under seal). This document was proposed for admission under document 10.

- (2) The Motion is moot regarding the admission of the documents identified by the following ERN numbers: 0463-8776-0463-8784, N000-4423-N000-4425, 0463-8814, 0463-8853-0463-8856, 0463-8827 and 0463-8808-0463-8810.
- (3) The proposed documents identified by Rule 65ter numbers: 3, 10-13, 15-19, 21, 25-28, 30-33, 36-44, 46-49, 52-53, 55, 82-93, 95, 97-101, 102/323, 247, 262, 393, 409, 420, 453, 481, 485, 487, 489-490, 492, 494-495, 500-511, 514-517, 519-527, 529-532, 535-538, 541, 544-549, 551-552, 555-558, 560-561, 563-567, 569, 572-580, 582-583, 590-593, 595-596 and 599 will be admitted into evidence.
- (4) The following documents admitted under (3), are admitted under seal: 10, 11-13, 15-19, 21, 44, 55, 247, 262, 409, 487, 489, 490, 492, 494, 501-510, 512, 514, 516-517, 519-526, 529-532, 535-538, 551-552, 555-558, 565-566, 569, 572-575, 590-591 and 599.
- (5) The proposed documents identified by Rule 65ter numbers: 29, 229, 246, 249, 258, 285, 382, 397, 419, 421, 435-438, 462, 482 and 598 are not admitted into evidence.
- (6) In respect of documents identified by Rule 65ter numbers: 20, 35, 394, 410, 533, 550, 553, 559, 562, 568, 570-571 and 601-603, translations should be provided for the Chamber to be able to make a determination of admissibility.

**REQUESTS** the Registry to assign exhibit numbers to the received documents and to inform the Chamber and the parties in writing accordingly.

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

Dated this fourteenth day of May 2007  
At The Hague  
The Netherlands



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Judge Kevin Parker  
Presiding Judge

**[Seal of the Tribunal]**