



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: 19 July 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:** 19 July 2007

**PROSECUTOR**

v.

**LJUBE BOŠKOSKI  
JOHAN TARČULOVSKI**

**PUBLIC**

**DECISION ON PROSECUTION'S SUBMISSION OF ENGLISH  
TRANSLATIONS OF PARTICULAR EXHIBITS THAT ARE  
THE SUBJECT OF THE "PROSECUTION'S MOTION FOR  
ADMISSION OF EXHIBITS FROM THE BAR TABLE" WITH  
CONFIDENTIAL ANNEXES A AND B**

**The Office of the Prosecutor:**

Mr Dan Saxon  
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**Counsel for the Accused:**

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

1. This decision of Trial Chamber II (“Chamber”) arises by virtue of the “Prosecution’s Motion for Admission of Exhibits from the Bar Table” with Confidential Annexes A to E” of 23 March 2007 in which the Prosecution sought the admission into evidence of 175 documents.<sup>1</sup> Counsel for Ljube Boškoski (“Boškoski Defence”)<sup>2</sup> and Counsel for Johan Tarčulovski (“Tarčulovski Defence”)<sup>3</sup> opposed the motion submitting that it was premature, or requested in the alternative, that a number of the proposed documents be declared inadmissible. Neither Defence objected to the authenticity of the proposed exhibits.<sup>4</sup> On 14 May 2007 the Chamber issued its “Decision on Prosecution’s Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A to E” (“Decision”) in which it decided, *inter alia*, that “in respect of documents identified by 65<sup>ter</sup> 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.”<sup>5</sup> These translations have now been submitted by the Prosecution.<sup>6</sup>

2. The law on admission into evidence of documents, and the Chamber’s views on the general submissions of the parties on that and related issues, has been set out in its Decision of 14 May 2007. The Chamber has applied those views on the law and the general submissions in this Decision and will not set them out again in this decision.

3. Documents 533, 550, 553, 559, 562, 568, 570 and 571 are documents which appear to have been submitted within the Ministry of Interior from various offices of the Ministry. These documents are of a similar nature, have been obtained from the same source and are sought to be admitted on the same basis as other documents already admitted by the Chamber. The Chamber has already found that documents of this nature are sufficiently relevant and reliable for the purposes of proving a reporting system within the Ministry of Interior.<sup>7</sup> Therefore, these documents will be admitted.

<sup>1</sup> Prosecution’s Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A to E, filed confidentially on 23 March 2007.

<sup>2</sup> Boškoski Defence Response to Prosecution Motion for Admission of Proposed Exhibits from the Bar Table, filed on 6 April 2007 (“Boškoski’s Response”).

<sup>3</sup> Johan Tarčulovski Response to Prosecution’s Motion for Admission of Exhibits from the Bar, filed confidentially on 6 April 2007.

<sup>4</sup> Boškoski’s Response, para 20.

<sup>5</sup> Decision, p 13, para 6.

<sup>6</sup> Prosecution’s Submission of English Translations of Particular Exhibits that are the Subject of the Prosecution’s Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A and B, filed confidentially on 30 May 2007. Confidential Annex A contains the documents sought admitted in English translation. Confidential Annex B consists of a table describing for each of the 15 documents sought admitted with the present Motion: Rule 65<sup>ter</sup> exhibit number, title/document description and date, source of document and indicia of reliability, original ERN/ ET (English Translation) ERN, relevance, probative value, key points and discuss – tender with witness.

<sup>7</sup> Decision, paras 26-28.

4. Document 410 is a report concerning the activities of the Ministry of Interior for 2001 prepared by the Analytical and Investigations Sector of the Ministry of Interior. Considering the source of this report, which was provided to the Prosecution by the Ministry of Interior, there is an apparent reliability. The report contains information relevant to the issue of whether an armed conflict existed in the territory of Macedonia at the time relevant to the Indictment, and is, therefore, relevant. It will be admitted.

5. Document 35 appears to be a decision of the Accused Ljube Boškoski, in his then capacity as Minister of Interior, in respect of the appointment of Goran Georgievski as the Head of the Sector for Special Units in the Ministry of Interior. Document 394 consists of various appeals, orders and statements concerning the security situation in the municipality of Kumanovo, from May to August 2001, which are said to have been issued by Ljube Boškoski and the Ministry of Interior. These documents were obtained by the Prosecution 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. They will, therefore, be admitted.

6. Documents 601-603 are criminal charges brought against various Ljuboten residents. The Prosecution submits that it has included these portions of the proposed exhibits on its Rule 65*ter* list twice pursuant to instructions of the Trial Chamber to include the proposed exhibits of expert witnesses on its Rule 65*ter* exhibit list.<sup>8</sup> The Chamber notes that these documents have already been admitted into evidence during the trial. By its “Third Scheduling Order setting Time for Submissions” the Chamber, in a pre-trial procedural order, required the Prosecution to include any proposed exhibits appended to expert reports in the exhibit list.<sup>9</sup> That order has now been overtaken by the decision of the Chamber, in the trial, to admit these documents into evidence as part of the relevant court files (Exhibits 46, 50 and 53). No separate admission of these documents is needed. The motion regarding these documents is moot.

7. Document 20 is a formal request of 5 September 2002 of the ICTY Prosecutor to a Trial Chamber of the ICTY for an order to the authorities in the Republic Macedonia that its courts defer to the competent authorities of ICTY all current and future investigations of alleged crimes by members of the NLA as well as all current and future investigations and prosecutions concerning the activities of the Macedonian forces against Macedonian Albanian civilians in Macedonia in 2001. It purports to be made under Rules 9 and 10 of the Rules of Procedure and Evidence. Also

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<sup>8</sup> Prosecution’s Submission of English Translations of Particular Exhibits that are the Subject of the Prosecution’s Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A and B, filed confidentially on 30 May 2007, para 7.

attached with document 20 is correspondence between the ICTY Prosecutor and the Public Prosecutor in Macedonia regarding that request and its implications for continued investigations in Macedonia, as well as correspondence with other public authorities in Macedonia. This resulted in an Order for an ICTY Trial Chamber dated 4 October 2002 whereby the national courts were in effect to defer to the competence of this Tribunal all investigations and prosecutions with regard to, *inter alia*, the present case.<sup>10</sup>

8. The authenticity of these documents is not challenged. As these documents are official letters of the authorities that issued them and as there is nothing to suggest otherwise, the Chamber accepts their reliability. The Chamber accepts that the documents, including the correspondence, have potential relevance to the alleged failure of Ljube Boškoski to investigate and punish the subordinates who are alleged to have committed the crimes charged in the Indictment.

9. The Boškoski Defence further submits that the Prosecution may not seek to rely on one of its own filings as “evidence” of facts alleged in the Indictment. Reference is made to jurisprudence of this Tribunal in which legal and factual arguments contained in appendixes have been struck out.<sup>11</sup> The context of the jurisprudence referred to by the Boškoski Defence have been submissions in appendixes as a means of subverting the word limits for submissions set out in the Practice Direction on Length of Briefs and Motions.<sup>12</sup> This issue relating to document 20 arises in an entirely different context. It will be admitted into evidence with its attachments.

<sup>9</sup> Third Scheduling Order Setting Time for Submissions, 15 December 2005, p 5.

<sup>10</sup> Decision on the Prosecutor’s Request for Deferral and Motion for Order to the Former Yugoslav Republic of Macedonia, 4 October 2002.

<sup>11</sup> Boškoski’s Response, paras 6 and 31.

<sup>12</sup> See *Prosecutor v. Halilović*, Case No: IT-01-48-A, Decision on Prosecution’s Motion to Strike Annexes to the Respondent’s Brief, paras 8 and 9, referring to Practice Decision on Length of Motions and Briefs, para (C) 6.

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

**DECIDES** as follows:

- (1) The submission is moot regarding the admission of the documents identified by the Rule 65*ter* numbers 601-603.
- (2) The documents identified by Rule 65*ter* number: 20, 35, 394, 410, 533, 550, 553, 559, 562, 568 and 570-571 are admitted into evidence. Document 559 is admitted under seal.

**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 version being authoritative.



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**Judge Kevin Parker**  
**Presiding**

Dated this nineteenth day of July 2007  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**