



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-05-87-T
Date: 30 August 2007
Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetana Kamenova
Judge Janet Nosworthy, Reserve Judge

Registrar: Mr. Hans Holthuis

Decision of: 30 August 2007

PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

PUBLIC

**DECISION ON PAVKOVIĆ FIRST MOTION FOR ADMISSION OF
DOCUMENTS FROM BAR TABLE**

Office of the Prosecutor

Mr. Thomas Hannis
Mr. Chester Stamp

Counsel for the Accused

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Mr. Milan Milutinović
Mr. Toma Fila and Mr. Vladimir Petrović for Mr. Nikola Šainović
Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Mr. Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksandar Aleksić for Mr. Nebojša Pavković
Mr. Mihajlo Bakrač and Mr. Đuro Čepić for Mr. Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Mr. Sreten Lukić

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 (“Tribunal”) is seised of “Pavković’s First Motion for Admission of Documents from the Bar Table,” filed 9 August 2007 (“Motion”), and hereby renders its decision thereon.

1. The Prosecution opposes the Motion, arguing that Pavković has not made an adequate enough showing of the documents’ relevance, reliability, and authenticity for them to be admitted into evidence. As argued by the Prosecution, the Chamber is thus left to intuit the relevance of the documents. It is also pointed out in the response that some of the documents are duplicates of exhibits already in evidence.¹

2. The Chamber has set forth in its “Decision on Prosecution Motion to Admit Documentary Evidence,” issued 10 October 2006, the following legal approach to documents tendered from the bar table:

18. Given the depth and breadth of this case, the Trial Chamber is generally sympathetic to parties presenting documents from the bar table. However, if that is to be the case, the offering party must be able to demonstrate, with clarity and specificity, where and how each document fits into its case....

19. Whatever the number of documents the [party] seeks to have admitted through its Motion, it must satisfy the requirements of the rules governing the admission of evidence in relation to each one. The following decision seeks to strike a proper balance between ensuring a fair trial and not over-burdening the parties in regard to the admission of evidence.

The Chamber reiterates its encouragement to the parties to seek the admission of documents from the bar table as a means of expediting the proceedings and so as not to squander valuable time in court with the tendering of documents susceptible to admission from the bar table.² This Motion requests the admission into evidence from the bar table of a number of documents and offers extremely abridged descriptions of the documents.³ The manner in which Pavković has tendered these documents is thus too scant for the Chamber properly to discern their relevance, probative value, and reliability. During the trial, the Chamber has held the Prosecution to a certain standard

¹ Prosecution Response to Pavković’s Motion for Admission of Documents from the Bar Table, 17 August 2007 (“Response”), paras. 2, 4–5.

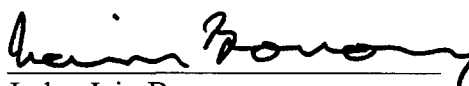
² See, e.g., Decision on Prosecution’s Third Request for Admission of Documents from the Bar Table, 23 March 2007; Decision on Prosecution Motion for Admission of Evidence in Connection with Philip Coo, 23 March 2007.

³ Motion, para. 1.

in this respect,⁴ and the same standard applies to the Defence; therefore, Pavković must make a further attempt to relate each tendered document to pertinent issues in the trial and address issues of provenance where necessary and appropriate, as generally has been done by Šainović and Milutinović in their recent motions of a similar nature.⁵

3. For the foregoing reasons, the Trial Chamber, pursuant to Rules 54 and 89 of the Rules of Procedure and Evidence of the Tribunal, hereby DENIES the Motion without prejudice and INVITES Pavković to re-apply for the admission of the documents in a manner in accordance with the terms indicated above.

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


Judge Iain Bonomy
Presiding

Dated this thirtieth day of August 2007
At The Hague
The Netherlands

[Seal of the Tribunal]

⁴ Decision on Prosecution Motion to Admit Documentary Evidence, 10 October 2006 (noting that Prosecution had failed in vast majority of cases to comply with requisite showing of relevance, probative value, and reliability).

⁵ Mr. Milutinović's Request for the Admission of Exhibits from the Bar Table, 16 August 2007; [Šainović] Defence Motion Requesting Leave to Exceed Word Limit of "Defence Motion Requesting Admission of Exhibits from the Bar Table," 9 August 2007.