



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: 18 October 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: 18 October 2007

PROSECUTOR

v.

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

PUBLIC

DECISION ON OJDANIĆ MOTION FOR ADMISSION OF EXHIBITS 3D735 AND 3D737

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 an oral motion, made by the Ojdanić Defence on 24 September 2007 (“Motion”), requesting the admission into evidence of exhibits 3D735 and 3D737, and hereby issues its decision thereon.

1. On 24 September 2007, the Ojdanić Defence tendered two documents as evidence through Milivoje Novković: 3D735 and 3D737. The Prosecution objected to their admission, and the Chamber deferred making its decision until it had heard all the evidence of Milivoje Novković.¹

2. Exhibit 3D735 is entitled “NATO Agression [*sic*] on Civilian Population and Facilities in Yugoslavia” and bears to have been produced by the *Vojska* Publishing-Information Center. The Ojdanić Defence argues that it shows the effect of NATO bombing upon the infrastructure of the FRY and upon the civilian population. Exhibit 3D737 is entitled “War Daily Reviews” and bears to have been produced by the VJ Press Center. The Ojdanić Defence argues that it is a compilation of contemporaneous reports dealing with the NATO air-strikes that relate to matters of fact and also provide evidence of the effect that NATO bombing had on the civilian population. It was explained that these documents were materials given to foreign journalists during the NATO bombing and that “if there is propaganda, it is only very slight”, as argued by the Ojdanić Defence.²

3. The Prosecution argues that the relevance and probative value of the documents has not been demonstrated because they were deliberately formulated for propaganda purposes and the events described therein occurred predominately in the Republic of Serbia, rather than Kosovo, where the underlying offences in the Indictment are alleged to have taken place.³

4. The Chamber has carefully reviewed the documents. The majority of the photographs are undated and do not indicate the precise location where they were taken or the circumstances to which they relate; as a result, there has been an insufficient proffer in relation to these documents’ reliability. The majority of the reports and photographs relate to events in the Republic of Serbia during the Indictment period, whereas the crimes alleged to have occurred were in Kosovo, whence it is alleged that the Kosovo Albanian population was forcibly displaced. In the event that the Ojdanić Defence wishes to re-tender certain discrete portions of the documents, *e.g.*, individual

¹ T. 16224–16225 (24 September 2007).

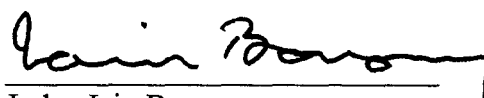
² T. 16224–16225 (24 September 2007).

³ T. 16222 (24 September 2007).

photographs or reports, it should provide particularised showings of their relevance, probative value, and reliability.

5. Accordingly, the Trial Chamber, pursuant to Rules 54 and 89 of the Rules of Procedure and Evidence of the Tribunal, hereby DENIES the Motion.

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



Judge Iain Bonomy
Presiding

Dated this eighteenth day of October 2007
At The Hague
The Netherlands

[Seal of the Tribunal]