



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: 13 May 2008
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

Order of: 13 May 2008

PROSECUTOR

v.

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

PUBLIC

**ORDER REGARDING ADMISSION OF DOCUMENTS REFERENCED IN
EXPERT REPORT OF BRANISLAV SIMONOVIĆ (EXHIBIT 6D668)**

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”) hereby issues this Order confirming the admission into evidence of documents referenced in the expert report of witness Brislav Simonović.

1. On 21 April 2008, the Chamber and the parties discussed the admission of documents referenced in the expert report of witness Brislav Simonović, after which the Chamber stated as follows:

So there's no misunderstanding of our ruling on what accompanies a report, in our order on procedure we said as a general rule the Chamber will only admit those parts of the report and further material that's put to the expert during his oral testimony. The sources used by an expert in compiling his or her report will not be admitted wholesale. Now, the reason for that provision is to stop a practice that has happened in at least one other case here, where whole books were being presented -- dumped on the Trial Chamber where only a very small part of the book was ever discussed. And parties have taken note of this and have applied it, I think, in their approach to the presentation of evidence. In case there's any doubt in your mind, however, where a report refers to an exhibit which is, say, a decision or a report of some kind and discusses, albeit briefly, that report will be admitted along with the report itself or that document will be admitted, and we will look at it just in the same way that we look at documents admitted through witness statements as long as they are discussed to some extent in the witness statement. So by admitting 6D668, while we won't be admitting books wholesale insofar as any might be referred to in there, we will be admitting decisions and some other documents that are discussed to some extent.

2. In addition, the Chamber notes its “Order on Procedure and Evidence,” issued 11 July 2006, which states at paragraph 7 the following:¹

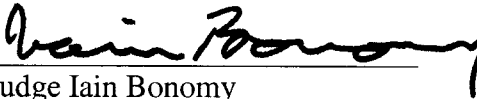
When an expert witness produces a report, that report, or part thereof, may be admitted into evidence, subject to the requirements of relevance and probative value. As a general rule, the Trial Chamber will only admit those parts of the report and further material that is put to the expert during his oral testimony. The sources used by an expert witness in compiling his or her report will not be admitted wholesale. Expert reports should, however, be fully referenced in order to facilitate the Chamber’s determination of their probative value and, ultimately, the weight to be ascribed to them.

¹ Order on Procedure and Evidence, 11 July 2006, para. 11 (as modified by Decision on Joint Defence Motion for Modification of Order on Procedure and Evidence, 16 August 2006).

3. Accordingly, the Trial Chamber, pursuant to Rules 54 and 89 of the Rules of Procedure and Evidence of the Tribunal, hereby CONFIRMS the admission into evidence of the following documents:

- a. The following exhibits have been admitted into evidence: P1220; P1223; P1501; P1826; 6D251; 6D409; 6D443; 6D571; 6D610; 6D927; 6D1330; 6D1334; 6D1335; 6D1336; 6D1337; 6D1339; 6D1341; 6D1345; 6D1346; 6D1347; 6D1351; 6D1354; 6D1356; 6D1361; 6D1369; 6D1370; 6D1371; 6D1372; 6D1373; 6D1412; and 6D1424.
- b. The following exhibits have not been admitted into evidence:² 1D236; 1D257; 1D285; 1D286; 1D364; 1D403; and 1D405.
- c. The following exhibits have been marked for identification, pending translation: 1D406;³ 6D292; 6D294; 6D362; 6D1323; 6D1326; 6D1328; 6D1331; 6D1333; 6D1353; 6D1355; 6D1359; 6D1365; 6D1374; 6D1418; 6D1419; 6D1420; 6D1421; 6D1422; 6D1423; and 6D1425.

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



Judge Iain Bonomy
Presiding

Dated this thirteenth day of May 2008
At The Hague
The Netherlands

[Seal of the Tribunal]

² See oral ruling of 16 August 2007, T. 13787–13788. These exhibits were withdrawn from the record following the joint agreement by the Prosecution and the Defence that they were not essential to the issues in the case, or were duplicates of exhibits already admitted into evidence.

³ The exhibit has already been admitted into evidence pursuant to an oral decision of 20 March 2007. However, only a partial translation of the exhibit has been uploaded to eCourt, and this translation does not contain the relevant articles referenced in exhibit 6D668.